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11/19/2018

Permit Application Number SAJ-2011-00551 (IP-TEH)

Formerly: SAJ-1998-2682 (IP-MN); Ridge Road Extension (RRE)

Colonel Andrew D. Kelly  
Commander, Jacksonville District  
U.S. Army Corps of Engineers  
701 San Marco Blvd.  
Jacksonville, FL 32207-8175

Shawn Zinszer,  
Chief, Regulatory Division  
Jacksonville District  
U.S. Army Corps of Engineers  
701 San Marco Blvd.  
Jacksonville, FL 32207-8175  
Dear Colonel Kelly, Regulatory Chief Zinszer,

Please put this Comment # 22 into the Administrative Record.

**PERSONAL NOTE: COMMENT # 22 CONTAINS COMMENTS THAT WERE WRITTEN IN BOLD AND UPPERCASE FORMAT. THIS RIDGE ROAD EXTENSION IS NOW THE LONGEST UNDECIDED APPLICATION IN THE HISTORY OF THE ARMY CORPS. AS SUCH, AFTER 20 YEARS, SOME OF THE COMMENTERS, WHO WERE IN THEIR MID-FIFTIES WHEN THEY BEGAN COMMENTING, ARE NOW IN THEIR MID-SEVENTIES AND THEIR EYESIGHT IS NOT WHAT IT USED TO BE. HENCE, THE BOLD AND UPPERCASE FORMAT FOR THE NARRATIVE.**

**ALSO, ALMOST ALL OF THE HIGHLIGHTS IN THE VARIOUS EVIDENTIARY INCLUSIONS ARE OURS. THEY SERVED TO ASSIST US IN FOCUSING ON THE IMPORTANT INFORMATION.**

## **INTRODUCTION**

**OUR FORMER COMMENT # 21 DID NOT ACCEPT THE DATA SUBMITTED IN THE RECENT 09/2018 PUBLIC NOTICE THAT ASSESSMENT OF ADDITIONAL IMPACTS THAT WILL OCCUR FROM THE NEW 7 INTERSECTIONS COULD BE DONE BY OTHERS AT A LATER DATE. THIS COMMENT # 22 DOES HOWEVER, FOR THE PURPOSES OF ARGUMENT, ACCEPT THAT DATA AT FACE VALUE. THE TOPICS IN THIS COMMENT ARE BASED IN LARGE PART ON THE PREMISE THAT THE APPLICANT WILL INDEED POSTPONE ALL ACTIVITIES RELATED TO PHASE 2 EAST OF THE PARKWAY WHICH NOW WILL REQUIRE UPDATING AND REDOING. THEY INCLUDE ENVIRONMENTAL SURVEYS, THE PREPARATION OF A BIOLOGICAL ASSESSMENT (BA), THE UMAM QUANTIFICATION OF ANY AND ALL ADDITIONAL DIRECT AND INDIRECT (SECONDARY & CUMULATIVE) WETLAND IMPACTS THAT MAY BE CAUSED BY THE ADDITION OF THE 7 NEW INTERSECTIONS, AND THE ASSESSMENT OF THE NUMBER OF MITIGATION CREDITS THAT WILL BE REQUIRED TO OFFSET THOSE IMPACTS.**

**OF COURSE, POSTPONING ALL OF THE ABOVE TO BE 'DONE LATER BY OTHERS,' AS STATED AND IMPLIED BY THE APPLICANT IN THE RECENT PN, WOULD BE BLATANT VIOLATIONS OF THE CODE OF FEDERAL REGULATIONS. HOWEVER, WE WILL STILL COMMENT IN THIS COMMENT # 22 TO THOSE PROPOSALS BY THE APPLICANT AND SHOW, FOR A NUMBER OF REASONS, THAT THE TASKS AND DATA REQUIRED TO COMPLETE THE RECENTLY MODIFIED APPLICATION, EVEN SHOULD THE APPLICANTS AGREE TO DO THEM THEMSELVES AND NOT RELEGATE THEM TO SOME FUTURE ENTITY, ARE NOW IMPOSSIBLE TO OBTAIN.**

## **EXECUTIVE SUMMARY**

THIS COMMENT # 22 IS BASED ON THE FACT THAT AFTER 20 YEARS, AND MORE RECENTLY AFTER OVER 18 MONTHS DURING WHICH THE APPLICANT PASCO COUNTY HAS BEEN UNABLE TO PROVIDE THE INFORMATION REQUIRED IN THE ACOE'S MAY 11, 2017 RAI, THE ACOE MUST MAKE A FINAL DECISION TO DENY THIS APPLICATION.

THERE ARE EIGHT PARTS TO THIS COMMENT # 22. THERE IS OFTEN EXTENSIVE AND SOMETIMES EXCERPTED EVIDENCE FOR EACH PART. TO SAVE TIME, IF THE READER, BE THEY ARMY CORPS REVIEW PERSONNEL OR MEMBERS OF THE FEDERAL JUDICIARY (JUDGES AND/OR JUDICIARY CLERKS), ACCEPTS THE VALIDITY OF A PARTICULAR PART OF THIS COMMENT, THEY CAN SKIP THE EVIDENCE SECTION FOR THAT PART.

**PART 1**--PASCO'S CONSULTANTS AND SUBCONSULTANTS (NV5 & DAWSON & ASSOCIATES) BOTH WARN PASCO THAT ANY DRASTIC CHANGES TO THE ACCESS ON PHASE 2 OF THE RRE'S MOD 7 WOULD RESULT IN MAJOR "COMPLICATIONS," BE "PROBLEMATIC," EXTEND THE REVIEW PERIOD AND CREATE UNACCEPTABLE CONDITIONS FOR THE REVIEW BY THE ARMY CORPS.

### **PART 2—INTRODUCTION:**

**PART 2A-1--2018 TOLLING AGREEMENT—THE BEXLEY FAMILY RESERVES THE RIGHT TO LITIGATE PASCO COUNTY REGARDING THREE ISSUES:**

**PART 2A-1A—A POTENTIAL VIOLATION OF THE PASCO COUNTY TRANSPORTATION CORRIDOR ORDINANCE SECTION # 901.2 WHICH ALLOWS PASCO TO REQUIRE THAT LANDOWNERS SET ASIDE CORRIDORS FOR TRANSPORTATION PURPOSES (THE RRE ROW).**

**PART 2A-1B— A POTENTIAL VIOLATION OF THE PASCO COUNTY ECOLOGICAL (WILDLIFE) CORRIDOR ORDINANCE SECTION 804 WHICH ALLOWS PASCO TO REQUIRE THAT LANDOWNERS SET ASIDE CORRIDORS FOR ECOLOGICAL CONNECTIVITY PURPOSES (2,200 FEET WIDE E/W ON THE BEXLEY RANCH).**

**PART 2A-2--A VIOLATION OF CONDITION # 14 OF THE 2013 RIGHT OF ENTRY AGREEMENT (ROE).**

**PART 2B--THE BEXLEY FAMILY HISTORY OF NO COOPERATION WITH PASCO COUNTY AND EMPHASIS ON THEIR U S CONSTITUTION FIFTH AND FOURTEENTH AMENDMENT RIGHTS TO BE THE SOLE DECISIONMAKERS REGARDING THEIR PRIVATE PROPERTY.**

**PART 2C--THE NEED FOR ACCESS TO ALL PRIVATE PROPERTY EAST OF THE SUNCOAST PARKWAY TO PROVIDE THE INFORMATION/DATA REQUIRED BY VARIOUS U. S. ENVIRONMENTAL LAWS.**

**PART 2D--EVIDENCE THAT THE ACOE MUST CONSIDER REGARDING WHETHER OR NOT DAWSON & ASSOCIATES, PASCO'S SUBCONSULTANTS, HAVE BEEN MISLEADING THE ACOE IN THEIR MONTHLY STATUS REPORTS. THE EVIDENCE WILL SHOW THAT ON 11/28/2017, WHEN THE BEXLEY FAMILY STILL OWNED THE ENTIRE 6,500-ACRE RANCH, THE DAWSON STATUS REPORT TO THE ACOE STATED THAT PASCO WAS "...COORDINATING WITH THE LANDOWNERS EAST OF THE PARKWAY TO ACHIEVE AGREEMENTS." ON THAT VERY SAME DAY THE DIRECTOR OF ENGINEERING SERVICES, MARGARET SMITH, IN AN EMAIL STATED: "...WE CANNOT WORK WITH BEXLEY..." SINCE THESE STATEMENTS CONTRADICT EACH OTHER, THE ACOE MUST INQUIRE AS TO WHICH IS THE CORRECT VERSION.**

**PART 2E--COPIES OF PERSONAL LETTERS OVER THE YEARS TO THE BEXLEY FAMILY KEEPING THEM APPRISED OF THE RRE MOD 7 ISSUE.**

**PART 3--EVIDENCE THAT THE RECENT RRE MOD 7 PUBLIC NOTICE (PN) NO LONGER SATISFIES THE PROJECT PURPOSE AS DEFINED BY THE ACOE.**

**PART 4A--EVIDENCE THAT THE SEPARATE PHASES OF THE RRE MOD 7 HAVE NO 'INDEPENDENT UTILITY' AND THAT THE ACOE CANNOT VIOLATE THE COUNCIL ON ENVIRONMENTAL QUALITY'S REGULATIONS REGARDING 'SEGMENTATION.'**

**PART 4B--COMMENTS FROM THE 10-YEAR RRE PERMIT REVIEWER MIKE NOWICKI WHICH INCLUDE HIS ANALYSIS THAT PHASES 1 AND 2 CANNOT BE SEPARATED AND, IF THEY ARE, A NEW APPLICATION MUST BE MADE FOR PHASE 1 ALONE. THAT WOULD BASICALLY BE A START OVER FOR PASCO COUNTY.**

**PART 5--EVIDENCE THAT PASCO COUNTY WILL NEVER GET SIGNED, BY THE NEW LEN-ANGELINE OWNERS, THE ACOE'S CONSERVATION EASEMENT LIMITING ALL ACCESS TO THEIR OVER 2,900-ACRE PROPERTY TO/FROM THE TWO MIXED-USE COMMERCIAL PARCELS ADJACENT TO THE SUNCOAST PARKWAY.**

**PART 6--EVIDENCE THAT THE FDOT/FTE CAN NO LONGER SUPPORT THE RRE OR ITS INTERCHANGE WITH THE SUNCOAST PARKWAY SINCE THEY ARE ON THE RECORD OPPOSING ALL PROJECTS THAT ARE NOT CONSISTENT WITH A COUNTY'S LONG RANGE TRANSPORTATION PLAN (LRTP). THE RECENT MODIFICATIONS TO THE RRE TO ELIMINATE NO ACCESS OVERPASSES AND ADD 7 NEW INTERSECTIONS ARE OUT OF COMPLIANCE WITH THAT LRTP. EVEN THOUGH THE COUNTIES CAN MODIFY/AMEND THOSE LRTP'S, THEY ARE A**



FEDERALLY REQUIRED DOCUMENT AND MUST HAVE EXTENSIVE PUBLIC COMMENT FOR ANY MODIFICATION. THE NEXT LRTP REQUIRED UPDATE IS NOT DUE UNTIL EARLY IN DECEMBER OF 2019.

PART 7--EVIDENCE THAT THE ACOE HAS IN THE PAST DISCOUNTED THE EVACUATION RATIONALE FOR THE RRE AS IMMATERIAL TO THEIR GUIDELINES. EVIDENCE PROVIDED WILL ALSO SHOW THAT THE LAST EVACUATION IN PASCO COUNTY FOR HURRICANE IRMA RESULTED IN NO EAST-WEST BACKUPS WHATSOEVER, AS STATED IN A PRIOR COMMENT (# 20) AND VERIFIED BY PASCO'S OFFICE OF EMERGENCY MANAGEMENT.

PART 8--NEW EVIDENCE GIVEN BY NV5'S PROJECT MANAGER TOM MONTGOMERY STATING THAT THERE ARE "PROBLEMS" WITH A RECENT DISCOVERY OF WETLANDS THAT WILL BE IMPACTED AT THE MIXED-USE MEDIAN OPENING, ESPECIALLY WHEN GOING INTO THE PARCEL TO THE SOUTH OF THE RRE.

**CONCLUSION TO THIS INTRODUCTION/EXECUTIVE SUMMARY:**

ALL OF THE ABOVE EVIDENCE TO BE SUBMITTED IN THIS COMMENT # 22 WILL SHOW THAT THE REQUIREMENTS FOR OBTAINING A CWA 404 PERMIT FOR THE RRE MOD 7 CANNOT BE ACHIEVED BY THE APPLICANT. IT WILL ALSO SHOW THAT WITH THE INCREASED DIRECT AND INDIRECT (SECONDARY & CUMULATIVE) WETLAND IMPACTS AND LISTED SPECIES HABITAT IMPACTS THAT WILL OCCUR BECAUSE OF THE 7 NEW INTERSECTIONS IN THIS NEW PUBLIC NOTICE, THERE ARE NOW OTHER ALTERNATIVES THAT BETTER QUALIFY FOR THAT LEDPA DESIGNATION AND THE MOD 7 IS NO LONGER THE "PRELIMINARY" LEDPA.

AS A RESULT OF THIS COMMENT # 22, THE BELOW CITED CWA REGULATION CAN, AND SHOULD, BE EMPLOYED BY THE ACOE TO MAKE A FINAL DECISION REGARDING THIS APPLICATION.

[https://www.epa.gov/sites/production/files/2015-03/documents/cwa\\_section404b1\\_guidelines\\_40cfr230\\_july2010.pdf](https://www.epa.gov/sites/production/files/2015-03/documents/cwa_section404b1_guidelines_40cfr230_july2010.pdf)

PART 230—SECTION 404(b)(1) GUIDELINES FOR SPECIFICATION OF DISPOSAL SITES FOR DREDGED OR FILL MATERIAL  
Subpart B—Compliance With the Guidelines

§ 230.12 Findings of compliance or non-compliance with the restrictions on discharge.

a) On the basis of these Guidelines (subparts C through G) the proposed disposal sites for the discharge of dredged or fill material must be:

(3) Specified as failing to comply with the requirements of these Guidelines where:

(iv) There does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines

**PART 1--PASCO'S CONSULTANTS AND SUBCONSULTANTS (NV5, & DAWSON & ASSOCIATES) BOTH WARN PASCO THAT ANY DRASTIC CHANGES TO THE ACCESS ON PHASE 2 OF THE RRE'S MOD 7 WOULD RESULT IN MAJOR "COMPLICATIONS," EXTEND THE REVIEW PERIOD AND CREATE UNACCEPTABLE CONDITIONS FOR A SUCESSFUL REVIEW BY THE ARMY CORPS.**

**BELOW, PASCO CONSULTANTS DAVE BARROWS (DAWSON & ASSOCIATES) AND TOM MONTGOMERY (NV5) BOTH TRY TO DISCOURAGE PASCO AND NOT ALLOW ADDITIONAL INTERSECTIONS TO A FORMER LIMITED ACCESS FREEWAY/ARTERIAL SINCE IT WOULD COMPLICATE THE APPLICATION REVIEW PROCESS BY THE ACOE.**

**BUT THEY BOTH NEGLECTED TO TELL PASCO THAT THE SUCH A DRASTIC CHANGE IN THE DESIGN/ACCESS FOR THE RRE MOD 7 PHASE 2 WOULD SEVERELY REDUCE THE CHANCES OF THE RRE MOD 7 BEING THE LEDPA AND GETTING A CWA 404 PERMIT FROM THE ACOE. AS DAVE BARROWS OF DAWSON AND ASSOCIATES TELLS PASCO BELOW, CHANGING A LIMITED ACCESS ROADWAY TO A FULL ACCESS ARTERIAL CLASSIFICATION WOULD BE SUCH A MAJOR CHANGE THAT IT WOULD LIKELY REQUIRE A NEW APPLICATION, NEW ALTERNATIVES ANALYSIS , NEW BIOLOGICAL ASSESSMENT, REVISED SECONDARY & CUMULATIVE IMPACTS ANALYSIS, AND NEWLY DEFINED PROJECT PURPOSE AND NEED.**

**DAVE BARROWS BELOW CITED 5 DOCUMENTS IN SUPPORT OF HIS ADVICE THAT ANY CHANGES TO THE ACCESS OF THE RRE MOD 7 ON PHASE 2 WOULD BE DRASTIC. HE STATED THAT "EVEN THE PROJECT PURPOSE HAS CHANGED" REFERRING TO THAT PURPOSE AS DEFINED BY TAMPA SECTION CHIEF KEVIN O'KANE IN AN 03/04/2013 LETTER TO PASCO. THE ELIMINATION OF THE LIMITED ACCESS, TOGETHER WITH THE FACT THAT PASCO DOES NOT PLAN TO CONSTRUCT THE PROJECT TO US 41, MEANS THAT THE PREFERRED MOD 7 NO LONGER SERVES THE PROJECT PURPOSE TO PROVIDE INCREASED TRAFFIC VOLUME FLOW AND EVACUATION OPPORTUNITIES TO US 41, WHILE OTHER ALTERNATIVES DO.**

**BUT PASCO COUNTY EVENTUALLY MADE THOSE DRASTIC CHANGES TO THE LIMITED ACCESS NATURE OF PHASE 2 AND TOTALLY DISREGARDED THE ADVICE/WARNINGS OF THEIR OWN CONSULTANTS.**

**FROM THE EMAIL BELOW, WE HAVE CONDENSED THE SPECIFIC TALKING POINTS TO INCLUDE DAVE BARROWS SAYING:**

**"Even the project purpose statement has changed since the 2011 PN based on the Corps determination of the overall project purpose..."**

**AND HE WARNED OF**

**“...the challenges associated with any potential modifications to the current permit application, especially if they included changes the limited access aspects of the proposed project.”**

**AND HE REFERENCED**

**“...the EPA 3(a) letter that it provided when commenting on the 2011 PN where it raises concerns regarding secondary and cumulative effects.”**

**AND STATED THAT**

**“...the current statement of project purpose as determined by the Corps and relied upon by the County when preparing the Alternatives Analysis that was submitted to the Corps in 2015.”**

**AND REFERRED TO**

**“...the 2016 draft BA, which relied upon limited access to conclude no additional interrelated or interdependent impacts, future development is not dependent upon RRE, and no reasonably foreseeable impacts to conclude “no effect” on RCW.”**

**AND HE INCLUDED**

**“...two excerpts from the 2013 Secondary and Cumulative Impacts Assessment that relied upon limited access support a determination that there are no growth inducing aspects associated with the RRE.”**

**COMMENT INSERT--HE CONCLUDED BY SUMMARIZING THE EXTENT OF THE COMPLICATIONS THAT MAY WELL ARISE IF PASCO WENT THROUGH WITH MAKING THE CHANGES THEY WERE CONTEMPLATING. HE BASICALLY WAS TELLING PASCO THEY WOULD HAVE TO START OVER.**

**PASCO DISREGARDED HIS COUNSEL.**

**“While all of these challenges could be addressed in time, it could require a new PN or new permit application, revising the AA, BA, and cumulative effects analysis.”**

Thanks much...Dave

**COMMENT INSERT--THE ABOVE INFORMATION WAS EXCERPTED FROM THE BELOW EMAIL WHICH WILL BE INCLUDED LATER IN ITS ENTIRETY. DAVE PULLED EXCERPTS TO INCLUDE IN THE BELOW EMAIL AND THEN, IN A LATER EMAIL, HE CITED THE COMPLETE REFERENCES. THE EXCERPTS FOLLOW:**

**From:** barrows@teleport.com [mailto:barrows@teleport.com]  
**Sent:** Thursday, May 24, 2018 4:02 PM  
**To:** 'Sam Beneck' <sbeneck@pascocountyfl.net>  
**Cc:** 'Margaret W. Smith' <mwsmith@pascocountyfl.net>; 'Dwight Beranek' <dwright.beranek@gmail.com>; Thomas Montgomery <Thomas.Montgomery@nv5.com>; 'John Bailey' <John.Bailey@cardno.com>  
**Subject:** RE: RRE - assessment from the Len-Angeline team

Thanks Sam. Appreciate the opportunity to review this assessment.

**The Len-Angeline assessment is limited to the review of what was requested and provided by the County, and considered only a small portion on the administrative record. Even the project purpose statement has changed since the 2011 PN based on the Corps determination of the overall project purpose and it does not afford greater weight to mobility over hurricane evacuation.**

**I pulled excerpts from several documents that illustrate the challenges associated with any potential modifications to the current permit application, especially if they included changes the limited access aspects of the proposed project.**

The first excerpt is from the USACE 2009 Standard Operating Procedures for Regulatory and addresses when to require a new public notice or a new permit application. Modifying the current permit application in a manner that changes the limited access commitment would likely trigger one or the other. In my judgment, it is very unlikely that the Corps would rely on the 2011 public notice (PN) to meet its public involvement obligations.

Next is an excerpt from the EPA 3(a) letter that it provided when commenting on the 2011 PN where it raises concerns regarding secondary and cumulative effects.

Also, I provided an excerpt of the current statement of project purpose as determined by the Corps and relied upon by the County when preparing the Alternatives Analysis that was submitted to the Corps in 2015.

I pulled three excerpts from the 2016 draft BA, which relied upon limited access to conclude no additional interrelated or interdependent impacts, future development is not dependent upon RRE, and no reasonably foreseeable impacts to conclude “no effect” on RCW.

Lastly, I included two excerpts from the 2013 Secondary and Cumulative Impacts Assessment that relied upon limited access support a determination that there are no growth inducing aspects associated with the RRE.

While all of these challenges could be addressed in time, **it could require a new PN or new permit application, revising the AA, BA, and cumulative effects analysis.** Thanks much...Dave

**COMMENT INSERT—THAT IS AS CLOSE AS HE EVER COMES TO TELLING PASCO THAT, IF THEY DECIDE TO MAKE THOSE ACCESS CHANGES, THEY WILL HAVE ON THEIR HANDS A COMPLETE START OVER.**

THE BELOW EMAIL

From: Sam Beneck  
Sent: Monday, April 23, 2018 10:54 AM  
To: Dan Biles  
Cc: Margaret W. Smith  
Subject: RRE - Documents referencing access limitation

Sir,

**Tom has combed the records a few times to establish the path the consideration of an access limitation on Phase 2 has taken.** The following language is taken from those emails:

The earliest documentation appears to be a 2007 RAI Response letter from the attorney representing Pasco County in the permitting effort at that time to Mike Nowicki of USACE. This 2007 letter was also referenced in a 2008 letter from Michele Baker to Chuck Schnepel responding to a USACE letter of

February 2008. The attached pdf "RRE Baker Letter..." contains the applicable pages from the 07 and 08 letters.

The after the 2011 (current) Application, the 2013 Cumulative and Secondary Impacts Analysis, 2015 Alternatives Analysis, and a 2016 RAI response package also address the limitation of access within Phase 2. Excerpts are attached.

Additionally the draft Biological Assessment that was submitted to USACE in April 2016 includes the following language:

"Effects of the proposed action that must be considered include interrelated and interdependent actions. The FWS consultation regulation defines these effects in 50 CFR 402.2 Effects of Action as: "Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration". The proposed Extension is a generally limited access roadway with an expected requirement of the USACE permit that no additional access points be permitted. The only access points are to existing areas of use that require access. The proposed roadway is critical for improved hurricane evacuation and to improve mobility within Pasco County, however it would not result in providing access to properties that may be developed in the future with the exception of one property east of the Suncoast Expressway. Access to all other properties that may be developed in the future could be obtained via existing roadways. The one development east of Suncoast Expressway that connects to the Extension will likely be constructed as planned only if the Extension is constructed. Therefore, there are no additional interrelated or interdependent actions associated with this proposed roadway."

Also attached are excerpts from the following:

- \* 2011 Application Package - Project Narrative
- \* 2013 Cumulative and Secondary Impacts Analysis
- \* 2015 Alternatives Analysis - Alternative descriptions
- \* 2016 RAI Response Package - Items 2 and 6

Sam Beneck  
Project Manager  
Pasco County<<http://www.pascocountyfl.net/>> Project Management

**COMMENT INSERT--AND BELOW ARE THOSE ATTACHMENTS FROM SAM BENECK TO COUNTY ADMINISTRATOR DAN BILES ON 4-23-2018 AT 10:54 AM. RED CIRCLE LINES AROUND SOME TEXTS ARE THE SECTIONS TOM CIRCLED FOR EMPHASIS.**

**1ST ATTACHMENT--- THE RRE MICHELE BAKER (THEN COUNTY ADMINISTRATOR) LETTER ON 05/09/2008. THE BELOW LETTER MAKES REFERENCES TO THE LETTER IMMEDIATELY FOLLOWING THAT WAS FROM 01/25/2007.**



## PASCO COUNTY, FLORIDA

DADE CITY 352 521-4274  
LAND O'LAKES 813 996-7341  
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COUNTY ADMINISTRATOR'S OFFICE  
WEST PASCO GOVERNMENT CENTER  
7530 LITTLE ROAD, SUITE 340  
NEW PORT RICHEY, FL 34654  
E-MAIL: [pcadmin@pascocountyfl.net](mailto:pcadmin@pascocountyfl.net)

May 9, 2008

Mr. Charles Schnepel, Chief, Tampa Section  
Department of the Army  
Jacksonville District Corps of Engineers  
P.O. Box 4970  
Jacksonville, FL 32232-0019

**Re: Ridge Road Extension, Permit SAJ-1998-2682 (P-M)**

Attention: Michael Nowicki

Dear Chief Schnepel:

Reference is made to your letter dated February 28, 2008, providing comments from the U.S. Fish & Wildlife Service (FWS) and the Environmental Protection Agency (EPA). The following is a preliminary response to the ten major issues raised in your letter. In addition, at our May 14<sup>th</sup> meeting, we will be prepared to respond to the other issues/concerns contained in the EPA and FWS letters that were attached to your letter. We look forward to meeting with the agencies in Jacksonville on May 14 to further clarify our responses as needed.

**Provide a detailed analysis of the access to be provided at the proposed interchange to the multi-use area south of the RRE. The County will have to show how access to developable lands south of the RRE would be prevented from connecting to this multi-use area. Otherwise, the County will have to provide cumulative and secondary impacts analysis for wetlands south of the RRE because of the access provided by the RRE.**

The County and Corps are aware that there are parcels on the north side and south of the proposed RRE that are designated for mixed use in the County's comprehensive plan (see Map provided in Exhibit E of the July 2006 submittal and detailed discussion regarding the Exhibit on page 4 of the January 25, 2007 letter, copy of letter provided in this package as Attachment 28). As stated previously, the only access point to the RRE in Phase II between the Suncoast Parkway and the CSX Railroad is approximately 3,275 feet east of the Parkway. This access point was provided for the mixed use parcels adjacent to the RRE. To prevent these two parcels from being used to provide access to other adjacent parcels, it is the County's intent to require a conservation easement along the perimeter of these parcels at the time these parcels are rezoned. The conservation easement to be utilized will prohibit the construction of any roads or other forms of access through or across the conservation easement.

**The agreement for the FDOT to build the interchange has apparently expired. Please provide a discussion regarding the building of this interchange by the FDOT including attempts by the County to secure right-of-way for the interchange on the east side of the Suncoast Parkway. The FDOT has indicated that it was the responsibility of the County to secure right-of-way for the east side of the proposed interchange.**



**FOWLER WHITE  
BOGGS BANKER**

ATTORNEYS AT LAW

ESTABLISHED 1943

January 25, 2007

Mr. Michael Nowicki  
United States Army Corps of Engineers (COE)  
701 San Marco Boulevard, Suite 372  
Jacksonville, FL 32207-8175

RE: Ridge Road Extension (RRE) – Permit Application No. 199802682 (IP-ES)  
Pasco County Response to Request for Additional Information Received August 18, 2006

Dear Mr. Nowicki:

This letter and enclosed revised Mitigation Plan is in response to your Request for Additional Information (RAI), as emailed on August 18, 2006, regarding the permit application documentation provided to the COE by Pasco County on July 10, 2006. Based on your

5. Exhibit E: Bexley mixed use analysis map. The coloration needs to be changed since this drawing is very hard to read and the colors in the legend do not really match the aerial. Was this the area intended for commercial uses like a gas station, motel and the like? It appears that access could take place to the north and south for other developments especially when Phase II becomes 4-lane. That means the "but for" condition would apply meaning but for the RRE access would not take place except by others building roads from the south. Does Pasco propose to somehow limit development to just the parcel shown on this map?

Response. We apologize for the clarity of the GIS Map. Seventeen (17) copies of the revised map are enclosed. The revised map shows the adjacent parcels and the nearby Five Mile Creek critical linkage. In order to make it easier to read, the Future Land Use has been changed from shading to outline. Additionally we have shown only the Land Use Land Cover areas that would be considered un-developable.

As we indicated in our earlier response, the only access point between the Suncoast Parkway and the CSX railroad is approximately 3,275 feet east of the Suncoast Parkway. This access point was provided to access the mixed use designated parcels in close proximity to the access point. From the revised Exhibit E you will note that the proposed Ridge Road Extension has mixed use parcels on its north and south sides. On the north side there are two mixed use parcels. Only one of the parcels has direct access to Ridge Road and it is completely surrounded by wetlands, so there should be no additional development using this access point. The other mixed use parcel on the north side does not have access to Ridge Road without obtaining a wetlands permit to cross the wetlands. Accordingly, no additional development can be served by the northern access without obtaining permits/authorizations from the Florida Department of Environmental

FOWLER WHITE BOGGS BANKER P.A.

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Protection (FDEP) or the Southwest Florida Water Management District (SWFWMD) and the U.S. Army Corps of Engineers (COE). The foregoing assumes that Pasco County also authorizes/approves amendments to its comprehensive plan for development to occur. Currently, all of the surrounding lands are designated as agricultural/rural. Even if the County wanted to change the future land use designation to accommodate additional development, it is unlikely because the Pasco County comprehensive plan already provides adequate land area for development and there is no need for additional developable land in the comprehensive plan.

As to the south side of Ridge Road, the mixed use designation is divided into two parcels. One is adjacent to the Suncoast Parkway and does not have access to the southern access to Ridge Road as it is surrounded by wetlands. The second parcel may or may not have access to Ridge Road because of a wetland along its eastern boundary.

Another important factor is that the Ridge Road extension runs exclusively through James P. Bexley's property and his property does not extend very far beyond the southern right-of-way of Ridge Road. The property to the south of James P. Bexley is owned by Angeline Corporation and all but a small part of its property is designated Agricultural/Rural in the Pasco County comprehensive plan. The small mixed use area is in the same "shape" and is contiguous to the second parcel described above and may or may not have access to Ridge Road because of a wetland along its eastern boundary. It is possible that James P. Bexley might grant access through his property to Angeline Corporation, but none exists today. In any event, in order for James P. Bexley or anyone else to access Ridge Road, they will need an access management permit from Pasco County. In addition, James P. Bexley needs an approved site plan for the development of the mixed use parcels. Pasco County has the authority through its site planning process and access management permit process to regulate who can access Ridge Road through the southern access point adjacent to James P. Bexley's mixed use parcel. Accordingly, it is Pasco County's opinion that these mixed use parcels will not provide access to the Ridge Road extension for adjacent properties.

It is also important to note that even if the James P. Bexley property and Angeline Corporation property were provided access to the Ridge Road extension (and this is highly unlikely), the James P. Bexley property and Angeline Corporation property have substantial amounts of wetlands and virtually any type of development of these areas will require approvals and authorizations from FDEP, SWFWMD, and COE. Accordingly, there is little, if any, likelihood that the Ridge Road extension will open up the James P. Bexley and Angeline Corporation properties for development. Additionally, as noted above there is no need for additional developable property in the Pasco County comprehensive plan.

## 2ND ATTACHMENT--- 2011 PERMIT APPLICATION PACKAGE—PROJECT NARRATIVE

**7.0) WETLAND IMPACT AVOIDANCE** – The objective of the 1997 Final Route Study, the 2001 Alternative Site Analysis and the 2011 Alternative Analysis mentioned above was to avoid wetland impacts. In addition to these alternative alignment reviews and analyses conducted for the RRE Project, Pasco County has avoided wetland impacts through the limited-access design of the RRE Project.

Both RRE Phase I and II are designed as limited-access facilities. Only six (6) points of access are included as follows:

- Three (3) access points are provided for the existing neighborhood of River Ridge on the far western segment of the RRE Project.
- One (1) full access point is designed for the Suncoast Parkway Interchange.
- There will only be two (2) access points between the Suncoast Parkway and US 41.

Pasco County will restrict access between the multi-use area and the developable lands at the proposed interchange on the Suncoast Parkway by requiring the owner(s) of the multi-use area to place a buffer or restriction on the perimeter of the multi-use area and prohibit the construction of roads in the buffer or restricted area. The County

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will impose such requirement on the multi-use area when this property is brought to the County for zoning approval. Imposing such a prohibition will be consistent with the County's intent to keep RRE a limited access road.

An added benefit of the limited-access nature of the RRE Project is that it will function more efficiently as an additional hurricane evacuation route with only limited traffic from intersecting roadways. By limiting the number of access points to the RRE, the RRE Project design minimizes the possibility of adjacent development and avoids secondary environmental impacts.

**8.0) WETLAND IMPACT MINIMIZATION** – In addition to the avoidance measures implemented by Pasco County in its planning and design of the RRE Project, Pasco County has implemented several measures to minimize the impacts to wetlands when such

### 3RD ATTACHMENT---2015 RRE ALTERNATIVES ANALYSIS—DESCRIPTION OF ALTERNATIVE # 5.

between the Suncoast and US 41 (Sunlake Road and Asbel Road) will cross Ridge Road Extension by overpasses without connections (see Appendix A-5).

#### 2.5 Alternative 5, 4-Lane RRE

Alternative 5 is the at grade extension of existing Ridge Road to US 41 constructing 4 lanes both west and east of the Suncoast. The alignment for this alternative is shown in Appendix A-3 and the typical cross section is shown in Appendix A-4. Alternative 5 passes through the existing overpass at the Suncoast. Completion of the interchange by constructing ramps to provide access to and from the Ridge Road Extension and the Suncoast is part of the improvements included with this alternative.

This alternative is predominantly a limited access roadway approximately 8.65 miles in length. Within the western-most 1.5 miles, adjacent to existing development, there are provisions for two commercial driveway connections and two residential street connections. Other than these connections, there will not be any additional access in the section of the proposed road west of the Suncoast. Immediately east of the Suncoast interchange there is a proposed driveway connection to a commercial parcel. This connection will not provide access to undeveloped land other than the commercial parcel. Consistent with the recently adopted 2040 LRTP, future north-south roadways between the Suncoast and US 41 (Sunlake Road and Asbel Road) will cross Ridge Road Extension by overpasses without connections (see Appendix A-5).

The SWFWMD concurred with the Ridge Road Extension alignment in 1997 and Pasco County prepared construction plans for the roadway along the alignment that is the same as that for Alternative 5. SWFWMD subsequently issued an Environmental Resource Permit for the construction of the Ridge Road Extension in 2003.

### INDIVIDUAL ALTERNATIVE ANALYSIS FOR MODIFIED ALTERNATIVE 7

#### 1.0 Alternative Description

Modified Alternative 7 is the extension of existing Ridge Road to US 41 constructing 4 lanes both west and east of the Suncoast Parkway. Modified Alternative 7 includes the extension of Ridge Road as a 4 lane facility west of Suncoast Parkway with segments of the roadway on bridges through all but 1.8 acres of wetlands and some upland portions of the Serenova Preserve. This includes the 1.0 acre of impact in the Serenova Preserve required of all central alternatives (2-7, and Modified 7) to construct an interchange with the Suncoast Parkway. This alternative includes less bridging than the original Alternative 7. East of Suncoast Parkway this alternative is 4 lanes at grade. The alignment for this alternative is shown in Appendix K-1 and the typical cross section is shown in Appendix K-2.

This alternative utilizes the same alignment as Alternative 5 for the Applicant's originally proposed project and passes through the existing overpass at the Suncoast Parkway that was constructed by Florida's Turnpike Enterprise to accommodate a future interchange with the

#### 4TH ATTACHMENT---12-30-16 FROM THE MAY 11, 2017 RAI RESPONSE PACKAGE

1. Please find attached a list of comments provided by the Environmental Protection Agency (EPA) following the interagency field meeting that occurred on November 16 and 17, 2016. The Corps requests that you provide a written response to EPA's comments.

1. The EPA requests aerial maps of the project which include bridge locations and quality assessment (1-3) conducted on each wetland by applicant.

*Attachment A (7 sheets) provides aerial maps of the project area that illustrate the location of currently proposed bridge and culvert crossings. The lengths of the bridges and the size and number of the culverts at each crossing is shown. These crossings include all crossings under the proposed Ridge Road Extension (RRE), both upland and wetland.*

*Also shown on the maps are Pasco County's standard classification of the wetlands (1-3). Please note that these classifications were not made specifically for this project. They are defined in the Pasco County Comprehensive Plan, Chapter 3, Conservation Element (<http://www.pascocountyfl.net/DocumentCenter/View/11365>). The classifications are used in Pasco County's Land Development Code, Chapter 800, Section 805, <http://www.pascocountyfl.net/DocumentCenter/Home/View/3855>. The intent of Section 805 is to protect wetlands and the natural function of wetlands within Pasco County.*

2. The EPA requests a map detailing the adjacent property owners to the proposed project in order to begin our cumulative impact analysis review. In addition, please provide any additional information the applicant may have to assist in this review.

*From the Suncoast Parkway to US 41, there are two tracts of developable land under private ownership that are adjacent to the RRE. There are additional owners within currently developed residential areas east of these tracts and west of US 41. Attachment B-2 shows the owners of the two developable tracts along this segment of the project and illustrates the currently platted residential areas. To limit cumulative impacts, access from adjacent land to the RRE is limited to one location along Phase II. That location is an at grade intersection to serve parcels that are currently shown as Mixed Uses on Pasco County's future land use maps. Consistent with the adopted 2040 LRTP, future north-south roadways east of the Suncoast that will cross the RRE (Sunlake Road and Asbel Road) will do so via overpasses without ramp connections to RRE.*

6. Please clarify how the property ownership of the lands adjacent to the proposed alignment would minimize cumulative impacts associated with future development.

*From the Suncoast Parkway to US 41, there are two tracts of developable land under private ownership that are adjacent to the RRE. There are additional owners within currently developed residential areas east of these tracts and west of US 41. Attachment B-2 shows the owners of the two developable tracts along this segment of the project and illustrates the currently platted residential areas. To limit cumulative impacts associated with future development, access from adjacent land to the RRE is limited to one location along Phase II. That location is a proposed at grade intersection to serve parcels that are currently shown as Mixed Uses on Pasco County's future land use maps. The land encompassing the mixed uses parcels is currently zoned A-C AGRICULTURAL DISTRICT. To develop the parcels as Mixed Uses would require the parcels be rezoned. As part of the rezoning process, Pasco County is able to impose restrictions on the future land development which may include access limitations. These limitations may be imposed through the requirement for the owner to grant easements along the perimeter of the property that could effectively prohibit access across the easement to adjacent lands. Consistent with the*

between the Suncoast and US 41 (Sunlake Road and Asbel Road) will cross Ridge Road Extension by overpasses without connections (see Appendix A-5).

## **2.5 Alternative 5, 4-Lane RRE**

Alternative 5 is the at grade extension of existing Ridge Road to US 41 constructing 4 lanes both west and east of the Suncoast. The alignment for this alternative is shown in Appendix A-3 and the typical cross section is shown in Appendix A-4. Alternative 5 passes through the existing overpass at the Suncoast. Completion of the interchange by constructing ramps to provide access to and from the Ridge Road Extension and the Suncoast is part of the improvements included with this alternative.

This alternative is predominantly a limited access roadway approximately 8.65 miles in length. Within the western-most 1.5 miles, adjacent to existing development, there are provisions for two commercial driveway connections and two residential street connections. Other than these connections, there will not be any additional access in the section of the proposed road west of the Suncoast. Immediately east of the Suncoast interchange there is a proposed driveway connection to a commercial parcel. This connection will not provide access to undeveloped land other than the commercial parcel. Consistent with the recently adopted 2040 LRTP, future north-south roadways between the Suncoast and US 41 (Sunlake Road and Asbel Road) will cross Ridge Road Extension by overpasses without connections (see Appendix A-5).

The SWFWMD concurred with the Ridge Road Extension alignment in 1997 and Pasco County prepared construction plans for the roadway along the alignment that is the same as that for Alternative 5. SWFWMD subsequently issued an Environmental Resource Permit for the construction of the Ridge Road Extension in 2003.

## **INDIVIDUAL ALTERNATIVE ANALYSIS FOR MODIFIED ALTERNATIVE 7**

### **1.0 Alternative Description**

Modified Alternative 7 is the extension of existing Ridge Road to US 41 constructing 4 lanes both west and east of the Suncoast Parkway. Modified Alternative 7 includes the extension of Ridge Road as a 4 lane facility west of Suncoast Parkway with segments of the roadway on bridges through all but 1.8 acres of wetlands and some upland portions of the Serenova Preserve. This includes the 1.0 acre of impact in the Serenova Preserve required of all central alternatives (2-7, and Modified 7) to construct an interchange with the Suncoast Parkway. This alternative includes less bridging than the original Alternative 7. East of Suncoast Parkway this alternative is 4 lanes at grade. The alignment for this alternative is shown in Appendix K-1 and the typical cross section is shown in Appendix K-2.

This alternative utilizes the same alignment as Alternative 5 for the Applicant's originally proposed project and passes through the existing overpass at the Suncoast Parkway that was constructed by Florida's Turnpike Enterprise to accommodate a future interchange with the

## 5TH ATTACHMENT---PAGES FROM THE CUMULATIVE AND SECONDARY IMPACTS ANALYSIS.

### Ridge Road Extension – Cumulative and Secondary Impact Analysis

Text Prepared by Cardno ENTRIX, November, 2013

#### Sec. 1508.7 Cumulative impact.

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

#### Sec. 1508.8 Effects (Secondary impact)

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

### EXECUTIVE SUMMARY

The TMDL establishes a maximum daily loading for total dissolved oxygen and proposes to reduce the current loading by improving stormwater treatment. (EPA 2013). Roadways generally do not contribute to low dissolved oxygen levels in streams.

#### Future Condition

As with water bodies in most developing areas, it is difficult to predict future water quality conditions in the Pithlachascotee or Anclote rivers with great certainty. However, the RRE is unlikely to significantly increase development in the area, as the RRE will be a limited access roadway and all areas where the County proposes future development (see Maps, Future Land Use 2025), with the exception of a small commercial node at the RRE junction with the Suncoast Parkway, should develop with or without the construction of the RRE. to the RRE may increase the speed of development, but will not cause it or increase its intensity. Both the RRE location and current Florida regulations should act to minimize any potential impacts to water quality.

Lastly, Pasco County intends to work with the Starkey land managers to minimize impacts on land management. The managing agency (SWFWMD) plans to manage these lands with controlled burns and alternative measures (SWFWMD 2005) and has developed protocols to facilitate safe burning practices in areas near roadways, such as burning when wind will push the smoke away from the roadway and use of mechanical management if burning is not feasible. With cooperation, Pasco County believes that land management that benefits wildlife and also minimizes risk of destructive wildfire affecting nearby developed areas can be maintained.

East of the Suncoast Parkway, there are no restrictions on land uses by the land owners except for those imposed by the County's future land use plan. The RRE, however, is not being built to encourage or facilitate losses of natural or agricultural lands. The RRE will be limited access, and no interchange is proposed other than the ones at the Suncoast Parkway and U.S. 41. Thus, the RRE will not facilitate more intensive development of the lands along the roadway, though it cannot prevent the development that will occur regardless of the existence of the roadway.

**COMMENT INSERT--THE ATTACHMENT TO THE ABOVE EMAIL TO SAM BENECK WITH DAVE'S COMPLETE ANALYTICAL COMMENTS INSERTED IS BELOW:**

### **Excerpts from Several Documents Regarding Cumulative Effects**

**Excerpt for Corps Standard Operating Procedures (2009) regarding when to issue a new public notice or require a new permit application, p 13:**

**If the applicant substantially modifies the project so that either the project or its reasonably foreseeable impacts to the aquatic environment are substantially different from those described in the original public notice, then a new public notice may be appropriate or necessary for proper evaluation of the proposal. Significant increases in the scope of a proposed activity should be processed as a new application in accordance with 33 CFR 325.2 (see 33 CFR 325.7(a)).**

**Excerpt from EPA 3(a) letter dated January 27, 2012, which was submitted as comments on the 2011 PN:**

**“Additionally, an assessment of direct, secondary and cumulative impacts of alternatives have not been sufficiently addressed to support issuance of a permit at this time.”**

**Excerpt from the Alternatives Analysis submitted to the Corps on April 14, 2015 stating the Corps determination of overall project purpose:**

**“The overall Project Purpose as defined by the USACE on March 4, 2013, and as restated in an August 8, 2013 letter from the USACE to the applicants, Page 2, Footnote 1, is provided below:**

**To improve east-west roadway capacity and enhance overall mobility within the area bounded by SR-52 to the north, SR-54 to the south, US-41 to the east, and Moon Lake Road, DeCubellis Road, Starkey Boulevard to the west in accordance with the County's current Comprehensive Plan and the Metropolitan Planning Organization's Long Range Transportation Plan. The project will also provide additional roadway capacity and improved routing away from coastal hazard areas and improve hurricane evacuation clearance times in the event of a hurricane or other major weather related occurrence in accordance with State of Florida**

requirements and the County's current Comprehensive Plan.”

**Excerpt from draft BA dated April 2016, p 2-11:**

[Effects of the proposed action that must be considered include interrelated and interdependent actions. The FWS consultation regulation defines these effects in 50 CFR 402.2 Effects of Action as: “Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration”. **The proposed Extension is a generally limited access roadway with an expected requirement of the USACE permit that no additional access points be permitted.** The only access points are to existing areas of use that require access. **The proposed roadway is critical for improved hurricane evacuation and to improve mobility within Pasco County, however it would not result in providing access to properties that may be developed in the future with the exception of one property east of the Suncoast Expressway.** Access to all other properties that may be developed in the future could be obtained via existing roadways. The one development east of Suncoast Expressway that connects to the Extension will likely be constructed as planned only if the Extension is constructed. Therefore, **there are no additional interrelated or interdependent actions associated with this proposed roadway.**]

**Excerpt from draft BA dated April 2016, p 3-10:**

“Based on a recent newspaper article, some of the agricultural land is for sale, so irrespective of the Extension, it may be developed within the next 25 years, lands further east and north and south along U.S. 41 are a mix of agriculture, residential and commercial development, or permitted for development. **None of this development is dependent on Ridge Road.** Ridge Road, however, will likely increase the rate of development and shorten the time until full build-out.”

**Excerpt from draft BA dated April 2016, p 3-10:**

**COMMENT INSERT—DAVE CITED ABOVE THE WRONG PAGE NUMBER—IT IS ON PAGE 3-20 AND NOT 3-10.**

[3.2.6 Conclusion

In the absence of other current, site-specific scientific and commercial data indicating the presence of red cockaded woodpeckers within the Action Area, and



the lack of reasonably foreseeable cumulative effects, the proposed determination is that the Extension will have “No Effect” on RCWs.”]

**COMMENT INSERT—FROM ABOVE EMAIL--IT IS MUCH WORSE FOR THE FLORIDA SCRUB JAYS. PASCO SAYS THERE WILL BE NO “INTERRELATED & INDEPENDENT EFFECTS” (PAGE 3-26 OF APRIL 2016 REVISED BA) SINCE NO SUITABLE HABITAT OCCURRED ON THEIR MAP IN THE ONLY POTENTIAL DEVELOPMENT THAT “WILL BE ACCESSED FROM THE EXTENSION” (THE MIXED-USE COMMERCIAL PARCEL AT THE INTERCHANGE). THEY STATED THAT HABITAT “IS NOT FLORIDA SCRUB JAY HABITAT.” BUT NOW, IF ALTERNATIVE # 19 WITH 7 NEW INTERSECTIONS ON PHASE 2 IS APPROVED BY THE ACOE, THE LEN-ANGELINE 2,900-ACRE PARCEL IS FULL OF THAT “SUITABLE HABITAT” AS SHOWN ON PASCO’S MAP. SOME OF IT IS OVERGROWN BUT NEVERTHELESS, IT MUST BE SURVEYED, AS MUST THE REMAINING OVER 3,600 ACRES OF THE BEXLEY RANCH EAST TO THE CSX RR TRACKS ON WHICH PASCO HAS NO ACCESS.**

**Excerpt from draft Cumulative and Secondary Impacts Analysis dated December 2013, p J 6:**

Future Condition

As with water bodies in most developing areas, it is difficult to predict future water quality conditions in the Pithlachascotee or Anclote rivers with great certainty. **However, the RRE is unlikely to significantly increase development in the area, as the RRE will be a limited access roadway and all areas where the County proposes future development (see Maps, Future Land Use 2025), with the exception of a small commercial node at the RRE junction with the Suncoast Parkway, should develop with or without the construction of the RRE. to the RRE may increase the speed of development but will not cause it or increase its intensity. Both the RRE location and current Florida regulations should act to minimize any potential impacts to water quality.”**

**COMMENT INSERT—THOSE STATEMENTS ABOVE ARE NO LONGER VALID.**

**Excerpt from draft Cumulative and Secondary Impacts Analysis dated December 2013, p J 37 in the context of wildlife habitat:**

“East of the Suncoast Parkway, there are no restrictions on land uses by the land owners except for those imposed by the County’s future land use plan. The RRE,

however, is not being built to encourage or facilitate losses of natural or agricultural lands. The RRE will be limited access, and no interchange is proposed other than the ones at the Suncoast Parkway and U.S. 41. **Thus, the RRE will not facilitate more intensive development of the lands along the roadway**, though it cannot prevent the development that will occur regardless of the existence of the roadway.”

**COMMENT INSERT—THAT 2013 CUMULATIVE AND SECONDARY IMPACTS ANALYSIS IS NO LONGER VALID. IT MUST BE REDONE. SYSTEMIC PROBLEMS PLAGUING PASCO COUNTY IN REPLYING TO THE ACOE’S MAY 11, 2017 RAI KEEP APPEARING OVER AND OVER. IN THE BELOW EMAIL FROM DAVE BARROWS, HE STATED THAT VERY THING WHEN CAUTIONING PASCO THAT ANY ATTEMPT TO REPLY TO ITEMS IN THE MAY 11, 2017 RAI WILL BE “PROBLEMATIC” SINCE “...Both 7 and 11 are dependent on 8 and 9 is dependent on 10 and must be addressed in 11.”**

**COMMENT INSERT—BELOW, TOM MONTGOMERY SAYS THE BA UPDATE CAN BE DONE BY APRIL OF 2018. WE WONDER HOW HE COULD COME TO THAT CONCLUSION WITH NO ACCESS TO THE REMAINING OVER 3,600-ACRE BEXLEY PART WEST OF THE CSX RR TRACKS, AND WITH POSSIBLE INTERSECTION-ADDED IMPACTS AND RESULTANT EXTRA MITIGATION NEEDED. THOSE INCLUDE IMPACTS TO WILDLIFE AND THEIR HABITAT THAT, WITHOUT ACCESS, ARE UNKNOWABLE. THE APRIL 2018 DATE HE REFERRED TO WAS 7 MONTHS AGO AND THAT PREDICTION NEVER HAS COME TO PASS.**

**TOM MONTGOMERY DOES SAY THAT, IF THE NEWLY PROPOSED ALTERNATIVE 19 (WITH 7 NEW INTERSECTIONS) IS ACCEPTED (MEANING ACCEPTED FOR SUBMITTAL TO THE ACOE), THEN NO TIME FRAME IS POSSIBLE. HE STATES BELOW THAT “...THE REVIEW COULD GO ON FOR YEARS.”**

**AND WE ADD: SO COULD THE FUNDS TO THE CONSULTANTS.**

**From:** David B. Barrows <barrows@teleport.com>

**Sent:** Friday, March 23, 2018 11:41 AM

**To:** 'Sam Beneck' <sbeneck@pascocountyfl.net>

**Cc:** 'Margaret W. Smith' <mwsmith@pascocountyfl.net>; 'Dwight Beranek' <dwight.beranek@gmail.com>; 'Thomas Montgomery' <Thomas.Montgomery@nv5.com>

**Subject:** RE: RRE - When could we be ready to respond to the RAI?

Sam: I recommend we wait. We still owe responses to 7 (Compensatory Mitigation), 8 (UMAM), 9 (Cumulative Impacts), 10 (Single Access Protections), and 11 (BA).

Both 7 and 11 are dependent on 8 and 9 is dependent on 10 and must be addressed in 11. Thanks...Dave

**COMMENT INSERT—THAT STATEMENT BY DAVE BARROWS IS CRITICAL SINCE IT SHOWS THAT ALL 4 OF THOSE AS YET TO BE SUBMITTED RESPONSES TO THAT 05/11/2017 ACOE RAI ARE INTERDEPENDENT. THE 2 MAIN REASONS WHY THEY HAVE NOT BEEN REPLIED TO FOR NOW 18 MONTHS IS THE LACK OF ACCESS BY THE BEXLEY FAMILY AND THE REFUSAL OF THE NEW OWNERS OF THE MIXED-USE PARCELS, LEN-ANGELINE, TO SIGN ANY CONSERVATION EASEMENT REQUIRED IN ITEM # 10 OF THAT RAI. THE RRE APPLICATION REVIEW IS AT A STANDSTILL, ON HOLD, AND HAS ESSENTIALLY REACHED A DEAD END.**

**BELOW SAM BENECK PROVIDES COUNTY ADMINISTRATOR DAN BILES WITH A TIMELINE CHART REGARDING WHEN RESPONSES TO THE 05/11/2017 ACOE RAI COULD BE EXPECTED TO OCCUR.**

**From:** Sam Beneck <sbeneck@pascocountyfl.net>  
**Sent:** Friday, March 2, 2018 4:43 PM  
**To:** Dan Biles <dbiles@pascocountyfl.net>  
**Cc:** Dwight Beranek (dwight.beranek@gmail.com) <dwight.beranek@gmail.com>; Dave Barrows (barrows@teleport.com) <barrows@teleport.com>; Margaret W. Smith <mwsmith@pascocountyfl.net>; 'Thomas Montgomery' <Thomas.Montgomery@nv5.com>  
**Subject:** FW: RRE - When could we be ready to respond to the RAI?

Sir,

Items discussed on the call today are attached or included below.

Status of RAI Response:		
<u>Item</u>	<u>Status</u>	<u>Estimated Completion</u>
1 – 7: Primarily Exhibits	Complete or nearly complete	3/23/18 (Fri)
8: UMAM	Phase 1 USACE comments anticipated 3/2/18  Phase 2 drafted, holding for Phase 1 comments	3/23/18 (Fri)
9: Cumulative and Indirect Impacts update	Simple update based on current conditions	3/30/18 (Fri)

10: Access Condition	Under review	
11: Biological Assessment update	Nearly complete. Team review week of 3/12/2018	3/30/18 (Fri)
Full RAI Response	Pending above, not inclusive of Item 10	4/2/18 (Mon)

Most recent CPM: Attached. This does not reflect some changes which were noted today which could shorten the overall duration as we have not received go-ahead from Shayne (USACE PM) to shift those items.

If anything further would be helpful please let me know. Otherwise have a great weekend, travel safe, and good luck.



**Sam Beneck**  
Project Manager

Pasco County Project Management

P (727) 847-2411 x1614

C (727) 753-8194

5418 Sunset Rd, New Port Richey, FL 34652

[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)

"Serving our community to create a better future."

We would love your feedback! Please [click here](#) to be directed to our online comment card

**COMMENT INSERT—ALL OF THE ABOVE DATES IN THAT CHART HAVE COME AND GONE AND NO RESPONSE BY PASCO WAS EVER MADE. PASCO IS STALLING IN THEIR RESPONSE TO THAT ACOE RAI. THERE HAVE BEEN SO MANY CHANGES TO THE APPLICATION OVER THE YEARS THAT A NEW APPLICATION IS NOW NEEDED.**

Here is the status of the RAI response based on moving forward with Mod 7 with no changes:

Items 1 through 7 are all nearly complete and consist primarily of exhibits that have been created or updated for RAI response purposes (including through the interchange segment of the project).

Item 8 is completion of the UMAM. Per today's conversation with Shayne we may get his latest comments by tomorrow. Once we receive them Phase 1 can be updated and Phase 2 completed. That will probably be another 3 weeks to allow for team review prior to submittal. Resubmittal to USACE is anticipated by the end of March.

Item 9 is an update to the cumulative and indirect effects and without changes to Mod 7 this is a relatively straight forward effort. It is anticipated this can be completed by the end of March.

Item 10, the County has developed the draft response.

**Item 11, updating the BA, is nearly complete based on Mod 7** and can ready for team review the week of March 12<sup>th</sup>. Submittal to USACE could made by the end of March.

With receipt of UMAM comments from USACE by tomorrow, the RAI response package could be ready for submittal to USACE by the end of March. **If other than Mod 7 is the basis for any of the RAI response items then it really isn't possible to provide a definitive RAI completion time frame.**

**COMMENT INSERT—SINCE THE MOD 7 ALTERNATIVE WAS LATER CHANGED AS DESCRIBED IN THE RECENT 09/2018 PN, TOM MONTGOMERY IS REFERRING ABOVE TO THE POSSIBILITY THAT THE MAY 11, 2017 ACOE RAI WILL ALSO HAVE TO BE ALTERED TO ADDRESS NEW REQUIREMENTS.**

**HOW LONG CAN THIS GO ON? HOW LONG CAN THE UNPAID, COMMENTING PUBLIC BE EXPECTED TO KEEP UP WITH THESE CONSTANT CHANGES, AND THEN REPLY TO THEM?**



**THE BEXLEYS CONSIDER THOSE CORRIDORS TO BE AN “ILLEGAL TAKING” OF THEIR PRIVATE PROPERTY. THEY RESERVE THE RIGHT TO CHALLENGE THE CONSTITUTIONALITY OF THOSE CORRIDOR ORDINANCES IN COURT. THE BEXLEYS ARE STAUNCH PRIVATE PROPERTY RIGHTS ADVOCATES.**

- 2--PASCO ATTEMPTED TO HAVE THE ACOE NULLIFY A 01/2013 LEGAL RIGHT OF ENTRY (ROE) AGREEMENT WITH THE BEXLEY FAMILY AFTER SIGNING A CONTRACT GRANTING AN INTERSECTION AT STATION # 354 – # 355 (CONDITION # 14). THAT ATTEMPT BY PASCO IN LATE 2016 TO SUBVERT THAT CONTRACT DESTROYED ANY CREDIBILITY THAT PASCO MAY HAVE HAD LEFT WITH THE BEXLEYS. THE RELATIONSHIP BETWEEN THE TWO WAS IRRETRIEVABLY BROKEN.**
- 3--THE BEXLEY FAMILY HAS A HISTORY OF NO COOPERATION WITH PASCO COUNTY GOING BACK TO 2005.**
- 4--THERE IS A NEED FOR ACCESS TO ALL PRIVATE PROPERTY EAST OF THE SUNCOAST PARKWAY TO COMPLETE THE REQUIREMENTS FOR A CWA 404 PERMIT.**
- 5--THE ACOE MUST LOOK INTO THE POSSIBILITY THAT DAWSON AND ASSOCIATES MAY HAVE BEEN MISLEADING THE ACOE IN THEIR MONTHLY STATUS REPORTS FOR OVER ONE YEAR REGARDING THE POSSIBILITY OF OBTAINING AGREEMENTS WITH THE BEXLEYS TO GAIN ACCESS.**
- 6--COPIES OF LETTERS TO THE BEXLEYS OVER THE YEARS APPRISING THEM OF THE PROGRESS, OR LACK THEREOF, OF THE RRE GOING ACROSS THEIR PRIVATE PROPERTY.**

**PART 2A-- EVIDENCE INDICATING WHY NO ‘AGREEMENTS’ WITH THE BEXLEY FAMILY WILL EVER OCCUR.**

**PART 2A-1--2018 TOLLING AGREEMENT—THE BEXLEYS RESERVE RIGHT TO LITIGATE PASCO COUNTY REGARDING TWO ISSUES:**

**PART 2A-1A—A POTENTIAL VIOLATION OF THE PASCO COUNTY TRANSPORTATION CORRIDOR ORDINANCE SECTION # 901.2 WHICH ALLOWS PASCO TO REQUIRE THAT LANDOWNERS SET ASIDE CORRIDORS FOR TRANSPORTATION PURPOSES (THE RRE ROW).**

**PART 2A-1B— A POTENTIAL VIOLATION OF THE PASCO COUNTY ECOLOGICAL (WILDLIFE) CORRIDOR ORDINANCE SECTION 804 WHICH ALLOWS PASCO TO REQUIRE**

THAT LANDOWNERS SET ASIDE CORRIDORS FOR  
ECOLOGICAL CONNECTIVITY PURPOSES (2,200 FEET  
WIDE E/W).

PART 2A-2--A VIOLATION OF CONDITION # 14 OF THE 2013 RIGHT OF ENTRY  
AGREEMENT (ROE).

PART 2A-1 INTRODUCTION.

THE BELOW CITED EXCERPTS FROM THE TOLLING AGREEMENT BETWEEN PASCO AND THE  
BEXLEY FAMILY IS FOUND IN ITS ENTIRETY AT THE PASCO 01/23/2018 BOCC MEETING AT

<http://pasco.siretechnologies.com/Sirepub/mtgviewer.aspx?meetid=1912&doctype=AGENDA>

ITEM # 8---ATTACHMENT # 3 AT

<http://pasco.siretechnologies.com/Sirepub/cache/2/32batc4muuyzu5hob4wwgec3/166992011122018103834739.PDF>

THE TWO MAJOR POINTS OF CONTENTION BETWEEN PASCO AND THE BEXLEY FAMILY  
CONCERN PASCO'S CORRIDOR ORDINANCES, NAMELY THE TRANSPORTATION (SECTION  
901.2) AND THE ECOLOGICAL (SECTION 804) CORRIDORS. EXCERPTS OF THE BEXLEY'S ISSUES  
WITH THE PRESERVATION OF THOSE CORRIDORS ARE BELOW.

THE BEXLEYS ARE CHALLENGING, IN THAT TOLLING AGREEMENT, PASCO'S VIOLATION OF THE  
2013 RIGHT OF ENTRY AGREEMENT (ROE), SPECIFICALLY CONDITION # 14.

WHEREAS, the County has adopted **Ecological and Transportation  
Corridor Ordinances**, codified as Sections 804 and 901.20 of the County's  
Land Development Code ("Corridor Ordinances"), the provisions of which may  
be triggered by applications for land use approval concerning the Land. JMFP,  
Angeline, and the Trusts dispute the constitutionality and/or validity of the  
Corridor Ordinances facially and/or as-applied to the Land but have not, as of  
the Effective Date, formally asserted claims or causes of action related to the validity,  
constitutionality, enforceability, or compensation due on account of the Corridor  
Ordinances (Corridor Ordinance Claims);

WHEREAS, prior to the Effective Date of this Agreement, Pasco County entered into  
certain Right of Entry Agreements with JMFP, Angeline, and the Trusts dated February  
1, 2013, March 28, 2013, and November 15, 2016, copies of which are included  
in Composite Exhibit B hereto ("ROEs"). JMFP, Angeline, and the Trusts maintain



that the County's obligations under the ROEs are valid and enforceable, and that representations made by County concerning its obligations under the ROEs reflected in the correspondence attached hereto as Exhibit C, constitute actionable anticipatory breach and/or breach and/or repudiation of the ROEs by the County. JMFP, Angeline, and the Trusts have not, as of the Effective Date, formally asserted claims related to the ROEs (ROE eClaims) but are willing to forbear from asserting such claims in order for the Parties to explore alternate means of resolving such disputes;

JMFP, Angeline, and the Trusts own property in Pasco County that is generally located east of the Suncoast Parkway, south of SR 52, and west of US 41 (the Bexley Property). The Bexley Property contains land that has been designated as future right-of-way for the Ridge Road Extension, and other land that has been designated as Ecological Corridors under the County's recently adopted Ecological Corridors Ordinance (Section 804 of the Land Development Code). Pasco County, under the authority and direction of the prior County Administrator, previously entered into Right of Entry Agreements to access the Bexley Property to conduct surveys and studies relating to the Ridge Road Extension.

JMFP, Angeline and the Trusts believe that they have certain legal claims relating to the Ridge Road Extension, the Right of Entry Agreements and the Ecological Corridors Ordinance, and the County disputes these claims. Nevertheless, JMFP, Angeline, and the Trusts have entered into a purchase and sale agreement by which a developer may acquire a substantial portion of the Bexley Property. The developer, with the cooperation of JMFP, Angeline, and the Trusts, contemplates submitting applications to the County for land use approvals and related applications for modifications of the Ecological Corridors applicable to the Bexley Property. JMFP, Angeline and the Trusts will not allow the developer to submit the land use and corridor modification applications to the County until the attached Reservation of Claims and Tolling Agreement has been approved by the Board. In order to allow submission of such applications, the outcome of which may resolve the potential disputes and claims, the County Attorney's Office and County Administration recommend that the County, JMFP, Angeline and the Trusts enter into the Reservation of Claims and Tolling Agreement to preserve the landowners' right to bring suit later and toll any statutes of limitation applicable to any claims, if necessary.

WHEREAS, the County disputes the Corridor Ordinance Claims and ROE Claims in their entirety;

WHEREAS, prior to the Effective Date of this Agreement, JMFP, Angeline, and the Trusts entered into a purchase and sale agreement by which a developer may acquire a substantial portion of the Land in phases ("PSA"). Subject to this PSA, the developer,

**COMMENT NOTE-- PSA MEANS PURCHASE & SALE AGREEMENT**

with the cooperation of JMFP, Angeline, and the Trusts, contemplates submitting applications to Pasco County for land use approvals and related applications for modifications of the Ecological Corridors applicable to the Land under Section 804 of the County Code. The Corridor Ordinance Claims and ROE Claims, to the extent such Claims have any validity, may be

mooted if satisfactory development approvals are obtained for the Land by JMFP, Angeline, the Trusts and/or a developer;

WHEREAS, the Parties believe that it is in their respective best interests that the assertion of or any litigation of the Corridor Claims or ROE Claims be deferred for a period of time in order to allow JMFP, Angeline, and the Trusts and/or a developer to pursue land use approval and/or corridor modification applications to go forward through the public process because the outcome of such applications could potentially moot some or all of said eClaims, to the extent such claims have any validity;

WHEREAS, the Parties believe that it is in their respective best interests to agree to the claim reservation herein so that said JMFP, Angeline, and the Trusts and/or a developer may submit and process land use approval and/or **corridor modification** applications without prejudice to JMFP, Angeline, or the Trusts whose application, consent or co- application may be required;

WHEREAS, in order to allow submission of such land use applications, the outcome of which may resolve potential disputes and claims, and to conserve their financial resources, the Parties have agreed to the following reservation of claims and tolling of any statutes of limitation and deadlines applicable to any claims and defenses related to the Corridor Ordinances and/or ROEs upon the terms set forth below, facilitating a period of time to determine if the claims and issues can be resolved short of litigation.

**COMENT INSERT—BELOW ARE EMAILS REGARDING CORRESPONDENCE BETWEEN PASCO COUNTY ATTORNEY DAVID GOLDSTEIN AND THE BEXLEY FAMILY ATTORNEY AMY BOULRIS. THE TOLLING AGREEMENT WAS EVENTUALLY READY FOR THE 01/23/2018 BOCC MEETING. WE HAVE NO IDEA IF THEY WERE EVER SIGNED AND EXECUTED. THAT TOLLING AGREEMENT CONTAINED A LIST OF 'GRIEVANCES' THE BEXLEY FAMILY HAD AGAINST PASCO COUNTY. THE BEXLEYS INSISTED THAT AGREEMENT HAD TO BE SIGNED BEFORE ANY DISCUSSIONS RELATED TO THEIR LANDS OCCURRED.**

**From:** Boulris, Amy [<mailto:ABoulris@gunster.com>]  
**Sent:** Thursday, December 14, 2017 12:46 PM  
**To:** David Goldstein  
**Cc:** Clarke G. Hobby ([clarke.hobby@hobbylaw.com](mailto:clarke.hobby@hobbylaw.com)); Dan Biles; Keith L. Wiley  
**Subject:** RE: Tolling Agreement

David,

Thank you for sending that sample tolling agreement. It was helpful to our drafting efforts.

We propose to efficiently address the reservation of rights that had also been discussed in the same document. Accordingly, attached for your review is a draft reservation of rights / tolling agreement addressing the issues confronting our clients. We are transmitting this in aid of settlement and in the spirit of facilitating pursuit of solutions that hopefully minimize or avoid disputes all together. I will send an execution version with all signature blocks once we finalize the agreement. The referenced Exhibits are available at the following

link: [https://www.dropbox.com/sh/d9cng074q3vqaa7/AACT42P1JXz9Xka\\_yKiOiksua?dl=0](https://www.dropbox.com/sh/d9cng074q3vqaa7/AACT42P1JXz9Xka_yKiOiksua?dl=0).

**Our clients will insist on execution of a satisfactory reservation of rights / tolling agreement prior to the submission / processing of any applications implicating their land.** Thanks in advance for giving this attention, and please confirm whether or not BOCC approval is required.

Regards,

Amy



Amy Brigham Boulris | Shareholder

600 Brickell Avenue

Brickell World Plaza

Suite 3500

Miami, Florida 33131

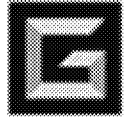
P 305-376-6062 F 305-376-6010

[gunster.com](http://gunster.com) | [aboulris@gunster.com](mailto:aboulris@gunster.com)

Thanks for acknowledging receipt, David.

The tolling agreement/reservation of rights was last discussed between us at an RRE related meeting, so we well understand it addresses our clients concerns with respect to both types of corridors. Please let us know when you anticipate County review may be complete, and again, whether or not BOCC approval is necessary for an authorized County signator.

Amy



**GUNSTER**  
FLORIDA'S LAW FIRM FOR BUSINESS

Amy Brigham Boulris | Shareholder

600 Brickell Avenue

Brickell World Plaza

Suite 3500

Miami, Florida 33131

P 305-376-6062 F 305-376-6010

[gunster.com](http://gunster.com) | [aboulris@gunster.com](mailto:aboulris@gunster.com)

**From:** David Goldstein [<mailto:dgoldstein@pascocountyfl.net>]

**Sent:** Thursday, December 14, 2017 1:25 PM

**To:** Boulris, Amy

**Cc:** Clarke G. Hobby ([clarke.hobby@hobbylaw.com](mailto:clarke.hobby@hobbylaw.com)); Dan Biles; Keith L. Wiley

**Subject:** RE: Tolling Agreement

Thank you Amy. Since this deals with more than just ecological corridors, I will not be the only person reviewing and commenting on this. Therefore, we may need additional time to complete our review.

**PART 2A-1A—A POTENTIAL VIOLATION OF THE PASCO COUNTY TRANSPORTATION CORRIDOR ORDINANCE SECTION # 901.2 WHICH ALLOWS PASCO TO REQUIRE THAT LANDOWNERS SET ASIDE CORRIDORS FOR TRANSPORTATION PURPOSES (THE RRE ROW).**

<https://www.pascocountyfl.net/756/Land-Development-Code>

**CHAPTER 900--- 16 PAGES**

**COMMENT INSERT--THIS MAY SHOW THAT THE BEXLEYS DO NOT WANT ANY RRE THROUGH THEIR PROPERTY AT ALL. THEY SEE IT AS AN ILLEGAL AND UNNECESSARY TAKING OF THEIR PROPERTY.**

**901.2**

The intent of this section is to coordinate the full development of roads within transportation corridors and the planning of future transportation corridors and roads with land use planning within and adjacent to the corridors to promote orderly growth to meet adopted Level of Service (LOS) requirements and to maintain the integrity of the corridor for transportation purposes.

The Board of County Commissioners (BCC) recognizes that the provision of an adequate transportation network is an essential public service. The plan for that transportation network is described in the County Comprehensive Plan and the Transportation Corridor Preservation Map and Table, and implemented through a capital improvements program, other policies and procedures, and through regulations on land use and development as well as regulations to preserve and protect the corridors and right-of-way for the transportation network. The purpose of this section is to foster and preserve public health, safety, comfort, and welfare and to aid in the harmonious, orderly, and beneficial development of the County in accordance with the Comprehensive Plan. 3. Ensuring that arterial, collector, and other roads and related facilities are safe and efficient, in coordination with a plan for the control of traffic, is the recognized responsibility of the County, in accordance with Sections 125.01(1)(m) and (w), Florida Statutes, and is in the best interest of the public health, safety, welfare, and convenience.

This section is intended to protect transportation corridors from encroachment by structures or other development except under special conditions.

**For purposes of jurisdictional applicability, this Section 901.2 shall apply to all development on land where any portion of the development site is within the jurisdiction of the County and shown on the County Transportation Corridor Preservation Map and Table.**

“Section 901.2.B” development approvals or development applications) and is located within a transportation corridor, the provisions of this Section 901.2 shall apply. **In addition, the County may apply Section 901.2 to other development permits/orders if all or any portion of the proposed development site or expanded development site is located within a transportation corridor.**

all applicants for a Section 901.2.B development approval or development permit/order, where any portion of the development site or expanded development site is located within a transportation corridor, shall enter into an agreement with the County, either in the form of a development agreement or as a condition of the development approval or development permit/order, which shall provide for the dedication to the County of lands within the development site or expanded development site which are within the transportation corridor, subject to the provision of Section 901.2.I.

Where the property owner believes that the amount of land required to be dedicated to the County under the provisions of Section 901.2 exceeds the amount of land that is roughly proportional to the transportation impacts of the proposed development site and expanded development site, or believes that any other County transportation-related exaction, dedication, condition, or requirement (transportation requirement) is not roughly proportional to the transportation impacts of the proposed development site and expanded development site, the property owner may apply to the development review committee for a dedication waiver in accordance with the provisions of this Section 901.2.I.

All appraisals shall be at the applicant's sole expense, prepared by an appraiser licensed in the State and in accordance with all applicable standards, and include the value of the land required to be dedicated as determined by the County Property Appraiser in the most recent appraisal prior to any Section 901.2.B development approval or Development Permit/Order for the property.

**COMMENT INSERT—HERE WE OMITTED THE 7 REQUIREMENTS LISTED THAT MUST BE MET OR THE VARIANCE IS DENIED.**

If the PC determines that there is a lack of substantial competent evidence demonstrating compliance with at least one (1) of the foregoing criteria, the PC shall deny the variance request.

**PART 2A-1B— A POTENTIAL VIOLATION OF THE PASCO COUNTY ECOLOGICAL (WILDLIFE) CORRIDOR ORDINANCE SECTION 804 WHICH ALLOWS PASCO TO REQUIRE THAT LANDOWNERS SET ASIDE CORRIDORS FOR ECOLOGICAL CONNECTIVITY PURPOSES (2,200 FEET WIDE E/W ON THEIR RANCH).**

**COMMENT INSERT—THE PASCO ECOLOGICAL CORRIDOR ORDINANCE WAS BASED ON A SCIENTIFIC STUDY DONE IN 2002. PASCO WAS ORDERED BY A JUDGE IN 2000 TO ESTABLISH A WILDLIFE CORRIDOR PROTECTION ORDINANCE AS A RESULT OF A COURT CHALLENGE BY CITIZENS FOR SANITY IN 2000. THAT ORDINANCE WAS BASED ON THE BELOW 2002 SCIENTIFIC STUDY. EXCERPTS FROM THAT STUDY ARE BELOW AND THE ENTIRE STUDY CAN BE FOUND AT:**

<http://www.pascocountyfl.net/DocumentCenter/View/347/Assessment-of-Measures-to-Protect-Wildlife-Hab-in?bidId=>

# *Assessment of Measures to Protect Wildlife Habitat in Pasco County*

*March 2002*



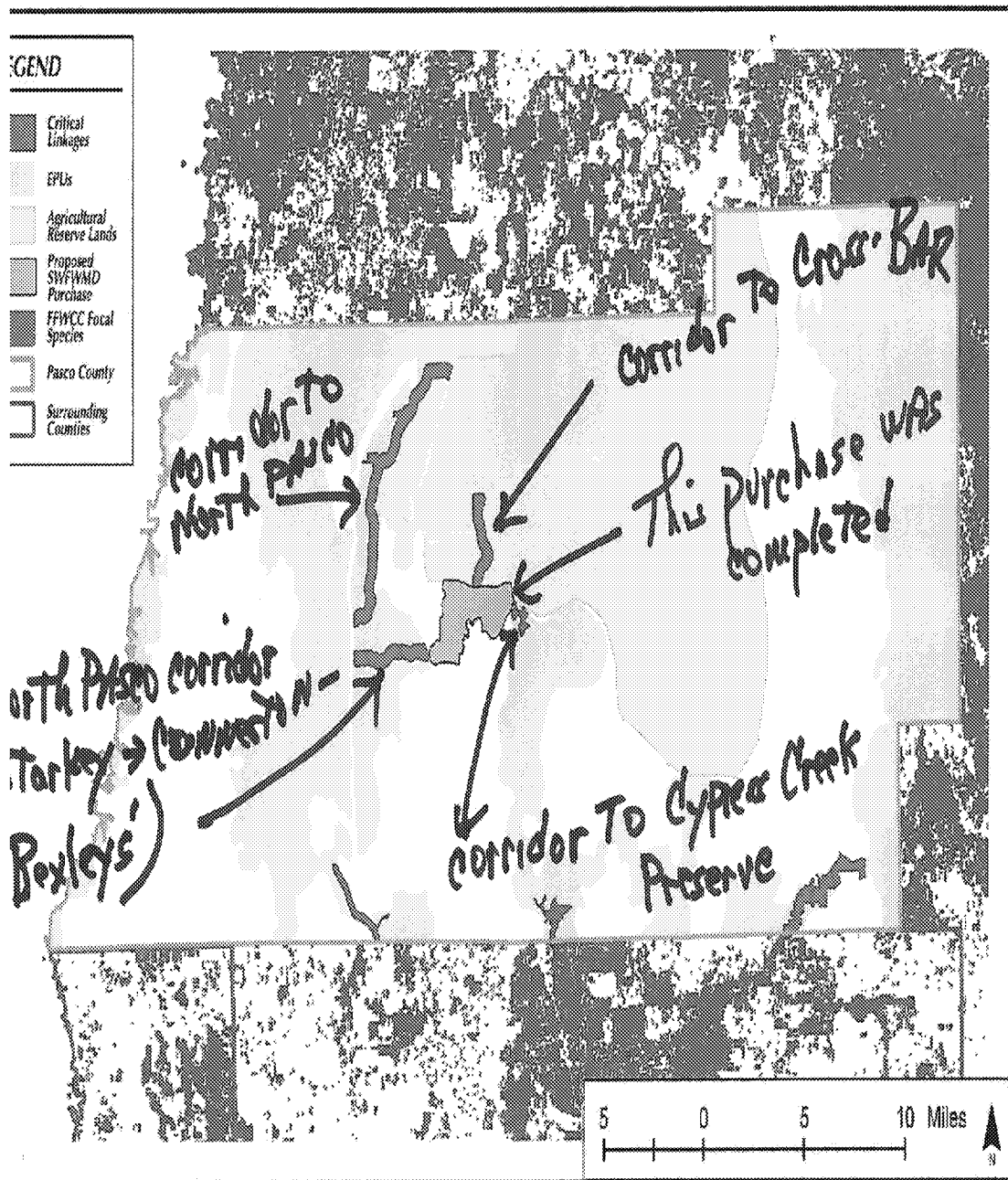
**FROM PAGES 36 – 39 OF 80**

**3.0 OBJECTIVES FOR CONSERVATION OF WILDLIFE HABITAT WITHIN CRITICAL LINKAGES, ECOLOGICAL PLANNING UNITS AND THE AG RESERVE**

The critical linkages, EPU's and the Ag Reserve lands comprise a substantial area of the County (Figure 11).

**COMMENT—THE MAP BELOW IS ON PAGE 27. IT SHOWS ALL OF THE CONSERVATION EASEMENT PRESERVES SURROUNDING THE RRE ROW, AND HOW THE CORRIDORS WERE DESIGNED TO CONNECT EACH OF THOSE WILDLIFE PRESERVE AREAS.**





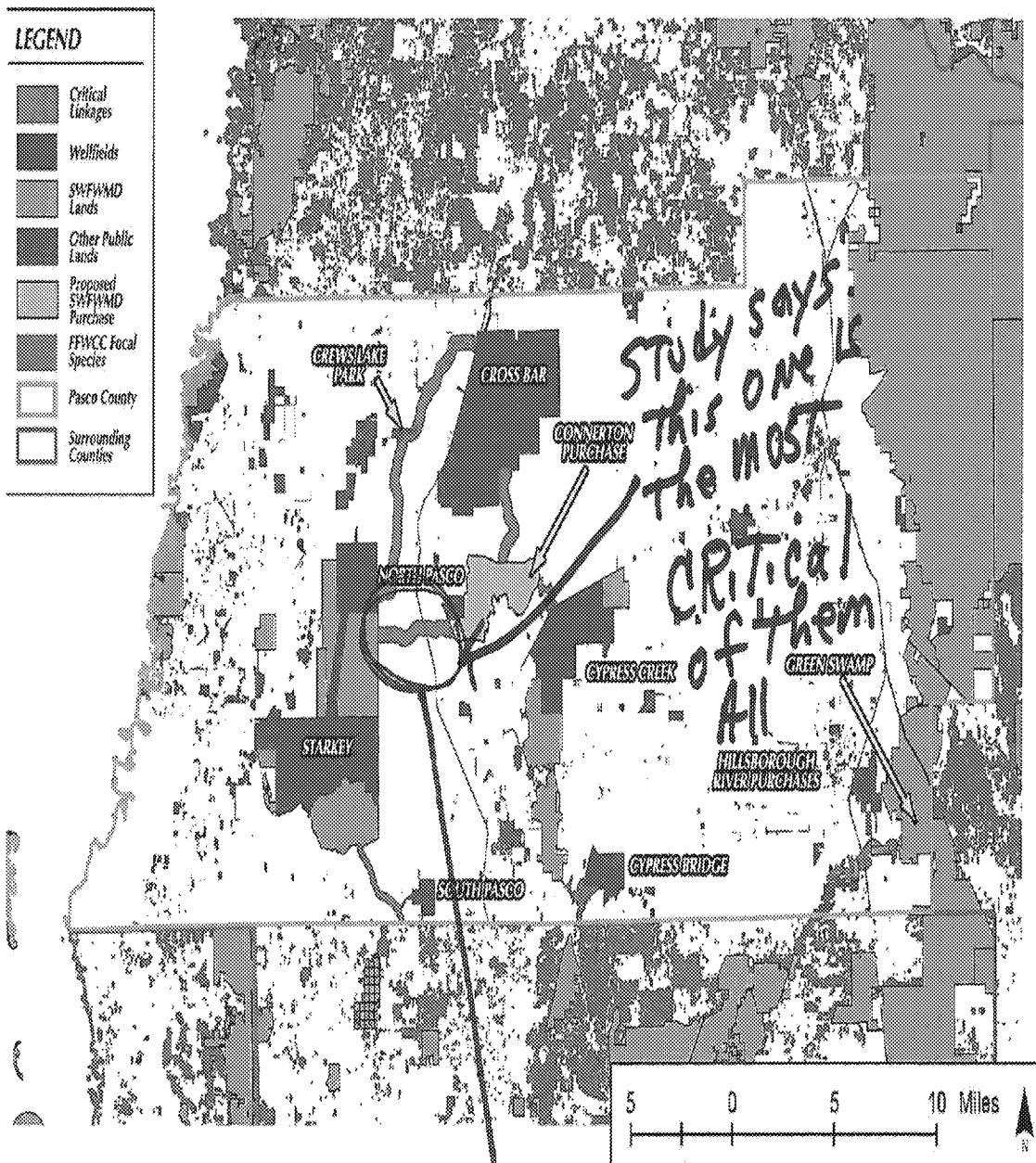
Source: Glattig Jackson

GLATTIG  
JACKSON  
SROCHER  
ANGELIN  
LOSER  
SINKERHART

Pasco County, Florida

Figure 11  
Critical Linkages, EPLs, and the Agricultural Reserve

# ALL CORRIDORS



GLATTING  
JACKSON  
BERGER  
ANGELIN  
LOPEZ  
RINSHART

Pasco County, Florida

RRE = JUST SOUTH OF

This Corridor

Source: Glatting Jackson and Pasco County

Figure 7

Critical Linkages (Corridors) of Wildlife Habitat  
Between Existing Public Lands

**COMMENT INSERT—BELOW IS FROM THAT STUDY. IT DESCRIBES IN DETAIL THE CORRIDOR THAT IS PARALLEL TO, AND RUNS NORTH OF, THE RRE ROW (THE NORTH PASCO TO CONNERTON CORRIDOR). THE TEXT HIGHLIGHTED IN BLUE REFERS TO THE “CRITICAL” IMPORTANCE OF THIS CORRIDOR WHICH GOES E/W THROUGH THE BEXLEY RANCH WEST OF THE CSX RR TRACKS.**

### 3.1.3 North Pasco to Connerton

- Protection of the floodplain of Fivemile Creek, particularly the forested wetlands along the flow-way;
- **Protection of the eastern portion of this linkage** through conservation easement, acquisition or other agreement with the landowner (**this portion of the linkage is critical to the connection with the Connerton Purchase**, and does not include a substantial wetland extent or 100-year floodplain that would provide some protection from development);
- Measures to maintain agricultural usage within and adjacent to this linkage;
- An appropriate wildlife crossing at the juncture of this linkage with SR 41;
- Measures to sustain the native communities along Fivemile Creek and the adjacent flatwoods; and
- Measures to sustain forested upland communities adjacent to linkage

PAGE 42

## 4.0 OBJECTIVES FOR CONSERVATION OF WILDLIFE HABITAT IN AREAS OUTSIDE OF ECOLOGICAL PLANNING UNITS

There is substantial wildlife habitat value within areas not defined as EPU or the Ag Reserve as described above, including not only the Connerton Connection, but also unidentified areas within urban and rural areas of the County. The need for “local” conservation strategies that supplement the regional conservation programs was emphasized by the TAC in the April 2001 review of technical issues related to the conservation of wildlife habitat in the county. Local conservation strategies would include conservation of wildlife habitat and unique natural resources in all portions of the county. Consequently, the lack of inclusion of certain portions of the county in an EPU or the Ag Reserve does not imply that the area has no wildlife habitat value. In fact, it is likely that some areas zoned for high intensity residential use may still have habitat occupied by state- or federally-listed species of plants or animals.

**COMMENT INSERT: THAT INCLUDES THE NOW RECENT 2,900 ACRE LEN-ANGELINE PURCHASE ADJACENT (EAST OF) THE SUNCOAST PARKWAY HAVING SOME OF THE 7 NEWLY PROPOSED INTERSECTIONS THAT NOW HAVE ACCESS TO THE RRE.**

As a consequence, protection of habitat for threatened and endangered species, conservation of rare or unique natural communities, protection of buffers to wetland systems, and incentives for developers to conserve uplands and wetlands connected to EPU's, and critical linkages within the Ag Reserve should all be components of a comprehensive local conservation strategy.

Objectives for local conservation measures on lands outside of EPU's and the Ag Reserve include the following:

#### 4.1 Connerton Connection:

- Maintain connection between Anclote / Pithlachascotee Watershed, Crossbar Sandhill and Cypress Creek EPU's;

**COMMENT INSERT: THAT "CORRIDOR" AREA INCLUDES ALL OF THE 2,200-FOOT WIDE ECOLOGICAL CORRIDOR ON THE ORIGINAL OVER 6,500 ACRE BEXLEY RANCH AND THE NOW 2,900 ACRE LEN-ANGELINE PORTION RECENTLY PURCHASED AND SLATED FOR FUTURE DEVELOPMENT.**

- Protect unique or rare habitats;
- Minimize road crossings of lands set aside for conservation; and
- Encourage the planting of native species.

**COMMENT INSERT—BELOW IS FROM THE ACTUAL ORDINANCE. IT IS FOUND AT:**

[http://www.pascocountyfl.net/DocumentCenter/View/24925/Ecological-Corridors-Signed-Ordinance-Eff-06 24 16?bidId=](http://www.pascocountyfl.net/DocumentCenter/View/24925/Ecological-Corridors-Signed-Ordinance-Eff-06%2016?bidId=)

CERTIFIED  
DOCUMENT

BY THE BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 16-13

AN ORDINANCE ADOPTING SECTION 804 OF THE PASCO COUNTY LAND DEVELOPMENT CODE (ECOLOGICAL CORRIDORS AKA CRITICAL LINKAGES); AND OTHER SECTIONS, AS NECESSARY, FOR INTERNAL CONSISTENCY; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

That resulted  
from A Judge's  
ruling in a  
Lawsuit brought  
by Citizens for  
Sanity Against  
Pasco County in  
2000.

WHEREAS, Pasco County entered into a Settlement Agreement in August 2000 with various litigants that required modifications to the Comprehensive Plan, including the Conservation Element; and

WHEREAS, the Pasco County Board of County Commissioners (the Board) commissioned a study to assess measures to protect wildlife in Pasco County; and

WHEREAS, in March 2002 the Board accepted the study, *Assessment of Measures to Protect Wildlife Habitat in Pasco County (Habitat Study)*, as amended, which recommends a regional approach for habitat protection by designating Ecological Corridors (aka Critical Linkages) connecting public lands and identifies seven (7) Critical Linkages to be set aside for conservation and habitat preservation; and

CHAPTER 800. NATURAL AND CULTURAL RESOURCES PROTECTION

SECTION 804. ECOLOGICAL CORRIDORS

804.1. Intent and Purpose

It is the intent and purpose of this Section to:

- A. Implement Objective CON 1.2, Critical Linkages, of the Conservation Element of the Comprehensive Plan, as amended;

3. North Pasco (Starkey) to Conneron Ecological Corridor

Description: Throughout much of its approximately four-mile course, this Ecological Corridor incorporates the forested wetland systems associated with Five Mile Creek. There is an existing large, open span undercrossing at the juncture with the Suncoast Parkway. An additional large mammal undercrossing is designed for this Corridor's juncture with U.S. 41 providing connectivity with the Conner Preserve. Much of the western portion of this 2,200-foot-wide corridor is

comprised of forested wetlands and the floodplain associated with Five Mile Creek. This corridor includes areas of historic flatwoods habitat that have been modified to agricultural and silvicultural use. The flatwoods communities can be restored as part of the preservation of this Corridor, but several areas of relic Sandhill also exist within the confines of the recommended Corridor boundaries enhancing its diversity and value as habitat. The essential features within the confines of the Ecological Corridor are the forested wetlands and floodplain associated with Five Mile Creek and the small, imbedded upland habitats within the limits of the Ecological Corridor boundary.

Boundaries: Being one thousand one hundred (1,100) feet on each side of the centerline of the Five Mile Creek wetlands and associated uplands, extending from the Starkey Wilderness Park easterly

**PART 2A-2--A VIOLATION OF CONDITION # 14 OF THE 2013 RIGHT OF ENTRY AGREEMENT (ROE).**

**COMMENT INSERT—EXCERPTS FROM THE RIGHT OF ENTRY AGREEMENT (ROE) ARE BELOW. CONDITION # 14 REQUIRES PASCO TO GRANT AN INTERSECTION AT THE BEXLEY RANCH ROAD LOCATION. THAT IS NOW WHERE THE N/S SUNLAKE BOULEVARD WILL CROSS (AND INTERSECT WITH) THE RRE. THE BEXLEY FAMILY HAS RESERVED THE RIGHT TO LITIGATE THIS ISSUE AND FORCE PASCO TO ABIDE BY THEIR ROE CONTRACT.**

**From:** Michele Baker  
**To:** Hurst, Tracy E SAJ  
**Cc:** john.post@dot.state.fl.us; dgetzoff@llw-law.com; gratliff44@gmail.com; Bipin Parikh  
**Subject:** FW: Ridge Road Ext.-Bexley ROE Agreement - Executed  
**Date:** Friday, February 01, 2013 9:49:04 PM  
**Attachments:** Right of Entry Agreement Fully Executed 2-1-13.pdf  
**Importance:** High

Tracy - please see attached Right of Entry FYI. We plan to begin snake surveys on Bexley property on Thursday of next week. We have completed the field work in Phase 1.

Michele

Michele Baker (from a mobile device)

-----Original Message-----

From: Laura A. Aprile [laprile@pascocountyfl.net]  
Received: Friday, 01 Feb 2013, 4:19pm

To: aboulris@gunster.com [aboulris@gunster.com]  
CC: Marcie McDonie [mmcdonie@pascocountyfl.net]; Michele Baker [mbaker@pascocountyfl.net]; 'MVanDyke@gunster.com' [MVanDyke@gunster.com]

Subject: Ridge Road Ext.-Bexley ROE Agreement - Executed

Good afternoon,

On behalf of Marcie McDonie, I am forwarding a copy of the **fully executed Right of Entry Agreement with the Exhibits for the Bexley property**. A hard copy will be mailed to your office. Please see attached.

Sincerely,

Laura A. Aprile, FRP, Paralegal  
Assistant to Anthony M. Salzano, Esq.  
Pasco County Attorney's Office  
8731 Citizens Drive, Suite 340  
New Port Richey, Florida 34654  
Phone: (727) 847-8120  
Fax: (727) 847-8021

This instrument prepared by and Return to:  
Amy Brigham Bouffris  
2 South Biscayne Boulevard, Suite #3400  
Miami, Florida 33131-1897

## Right of Entry Agreement

Property Appraiser's Parcel(S) ID (Folio) Number(s):

19-25-18-0000-00100-0000 20-25-18-0000-00100-0000 21-25-18-0000-00500-0000  
30-25-18-0000-00100-0000 29-25-18-0000-00100-0000 28-25-18-0000-00100-0000  
30-25-18-0000-00100-0010 29-25-18-0000-00100-0010 28-25-18-0000-00100-0010  
31-25-18-0000-00100-0000 32-25-18-0000-00100-0000 33-25-18-0000-00100-0000

THIS AGREEMENT, made this 1<sup>st</sup> day of February, 2013, between first parties, James and Mabel Family Partnership, L.L.P. and Angeline Corporation, title owners of Pasco County real property commonly known as the Bexley Ranch, whose addresses (respectively) are PO Box 198 and P.O. Box 789, Land-O-Lakes, FL 34639, hereinafter referred to collectively as the Co-Grantors, and the second party, PASCO COUNTY, a Political Subdivision of the State of Florida, whose post office address is 37918 Meridian Avenue, Dade City, FL 33525, hereinafter referred to as the Grantee.

WHEREAS, the Co-Grantors own and hold the real property represented by the outlined area on the map attached hereto and incorporated herein as Exhibit A ("Property"), which also lies within Pasco County Property Appraiser's Parcel ID (Folio) Numbers listed in the caption above.

AND WHEREAS, the Grantee desires to secure a right of entry to and upon the Property in connection with the public transportation project known as the Ridge Road Extension, for purposes of conducting the scope of work described in Exhibit B attached and incorporated herein (hereafter "scope of work"), which Grantee has represented is necessary to meet Army Corps of Engineers' permitting review requirements.

AND WHEREAS, the Co-Grantors are amenable to cooperatively granting a right of access (as a license only) for the scope of work, as limited by the terms of this agreement, so that Co-Grantors are not unduly prejudiced or exposed to liability in the course of or as a result of such cooperation.

WITNESSETH, that the Co-Grantors for good and valuable consideration by the Grantee, the receipt whereof is hereby acknowledged, hereby agree to allow entry for the scope of work, over and across the Property which is part of the Co-Grantors' land commonly known as the Bexley Ranch bounded on the west by the Suncoast Parkway and on the north by State Road 52, strictly subject to the following conditions to which Grantee expressly agrees through the execution of this agreement (hereafter "ROE"):

# CONDITIONS OF RIGHT OF ENTRY

14. In exchange for Co-Grantors' cooperation in granting the right of entry set forth herein, Grantee agrees to provide, at a minimum, the number of access points and crossings depicted on the construction plan attached and incorporated herein as Exhibit E, including at least one at-grade, intersection with the proposed Ridge Road Extension ("RRE") that would allow crossing between the portions of the Bexley ranch severed by the RRE and full directional access to the RRE. However, reference to Exhibit E in this ROE shall not constitute any acceptance or admission by the co-Grantors concerning the design depicted therein, and they reserve the right to seek modifications or object to design in available forums as they deem necessary.
15. Unless otherwise provided herein, any notice, demand or communication under or in connection with this ROE, shall be in writing and shall be transmitted via email to the address of counsel listed below or at such address any such party specifies in writing.

IN WITNESS WHEREOF, the said first party has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered  
in the presence of:

Tiffani Jones  
Witness

Tiffani Jones  
Print Name

[Signature]  
Witness

Daniel C. Conforti  
Print Name

Jennifer Bexley  
Jennifer Bexley, Managing Partner  
James and Mabel Family Partnership, LLLP



**COMMENT INSERT—THE THIRD ACOE RRE PROJECT MANAGER TRACY HURST BELOW HAD QUESTIONS REGARDING THAT CONDITION # 14.**

**From:** Hurst, Tracy E SAJ  
**To:** "Michele Baker"  
**Cc:** john.post@dot.state.fl.us  
**Subject:** RE: Ridge Road Ext.-Bexley ROE Agreement - Executed (UNCLASSIFIED)  
**Date:** Monday, February 04, 2013 12:09:00 PM

Classification: UNCLASSIFIED  
Caveats: NONE

Michele:

Thank you for providing this update. I have a few questions regarding this document as well as the status of the wildlife and cultural resource surveys:

1. The Right of Entry agreement appears to allow you to perform gopher tortoise, Eastern indigo snake, and striped newt surveys between 2/1/13-4/1/13 on Bexley Ranch. When do you plan to conduct other required wildlife surveys on the Bexley property (red-cockaded woodpecker, scrub-jay, Brooksville bellflower, Britton's beargrass) and cultural resource surveys of areas not previously surveyed?
2. Regarding areas outside of the Bexley property, which wildlife surveys are complete? When are the remainder scheduled?
3. Regarding portions of the project footprint outside of the Bexley property that were not previously surveyed for cultural resources, what areas have been surveyed? When are surveys for the remainder scheduled?
4. Condition of Right of Entry No. 14 reads:

"In exchange for Co-Grantors' cooperation in granting the right of entry set forth herein, Grantee agrees to provide, at a minimum, the number of access points and crossings depicted on the construction plan attached and incorporated herein as Exhibit E, including at least one at-grade, intersection with the proposed Ridge Road Extension ("RRE") that would allow crossing between the portions of the Bexley ranch severed by the RRE and full directional access to the RRE. However, reference to Exhibit E in this ROE shall not constitute any acceptance or admission by the co-Grantors concerning the design depicted therein, and they reserve the right to seek modifications or object to design in available forums as they deem necessary."

**Although most of the text on Appendix E is not legible, the drawing appears to show a single crossing with the Bexley property for a north-south roadway. It appears this is location where previously a bridge was proposed at 354+02.63 - 355+37.63. Can you confirm my understanding of this modification in the proposed plans? As such a crossing opens up lands to the north and south to development, this should be a consideration in the required secondary and cumulative impact assessment.**

Please provide this information, along with your response to our January 14, 2013 correspondence, no

later than February 13, 2013. Alternately, you may submit this information separately, prior to February 13, 2013. If you have any questions, please don't hesitate to call.

Thank you.

Tracy

Tracy Hurst | Biologist | U.S. Army Corps of Engineers | Tampa Regulatory Office | 10117 Princess Palm Avenue, Suite 120 | Tampa, FL 33610 | Phone 813-769-7063 | Fax 813-769-7061

**COMMENT-- THE BEXLEY FAMILY WANTS PASCO COUNTY TO HONOR THEIR 2013 RIGHT OF ENTRY (ROE) CONTRACT WHICH PROMISED THE BEXLEYS THEY COULD HAVE A FULL ON/OFF INTERSECTION AT THE THEN PROPOSED STATION # 354-355 OVERPASS "BRIDGE" (CONDITION # 14 OF THAT CONTRACT). THE BEXLEYS WERE INFORMED (BY US—THAT COMMUNICATION WILL FOLLOW SHORTLY) IN LATE 2016-EARLY 2017 THAT PASCO HAD SENT AN RAI RESPONSE TO THE ACOE IN 2016 WHICH REFERRED TO A REQUEST BY PASCO THAT THE ACOE FORBID ACCESS AT THAT INTERSECTION. THE PURPOSE OF THAT REQUEST BY PASCO WAS, IN PART, SO THAT PASCO WOULD NOT HAVE TO DO A DIRECT AND INDIRECT (SECONDARY & CUMULATIVE) IMPACT STUDY FOR ADDITIONAL IMPACTS THAT INTERSECTION ACCESS MAY CAUSE.**

**THE BEXLEYS WERE 'LIVID' THAT PASCO WOULD FIRST GRANT AN INTERSECTION SO THAT THEY COULD GET ACCESS TO THE BEXLEY RANCH FOR ENVIRONMENTAL SURVEYS (WHICH THEY DID IN 2013), AND THEN ESSENTIALLY TRY TO RENEG ON THEIR (PASCO'S) WORD/CONTRACTUAL OBLIGATION TWO YEARS LATER BY ASKING THE ACOE TO RENDER IT MOOT.**

**THIS RESULTED IN A TOTAL LOSS OF ANY CREDIBILITY THAT PASCO HAD WITH THE BEXLEY FAMILY DUE TO THAT ATTEMPT BY PASCO TO VOID A LEGAL OBLIGATION. THAT LOSS OF CREDIBILITY REMAINS TO THIS DAY. IT MAKES IMPOSSIBLE ANY "NEGOTIATIONS" BETWEEN THE TWO PARTIES. THAT IS WHY THERE HAS NEVER BEEN THE POSSIBILITY OF ANY 'AGREEMENT' BETWEEN PASCO AND THE BEXLEY FAMILY THAT WOULD ALLOW FOR ANY FUTURE ACCESS, NOTWITHSTANDING ANYTHING DAWSON & ASSOCIATES HAVE REPEATEDLY STATED IN THEIR LAST 18 MONTHLY STATUS REPORTS TO THE ACOE THAT THEY ARE 'CONSULTING' WITH THE BEXLEY FAMILY SO THAT SOME OF THE REQUIREMENTS OF THE ACOE'S MAY 11, 2017 RAI, WHICH REQUIRE ACCESS TO COMPLETE, CAN BE ACHIEVED.**

**BELOW IS THE EVIDENCE OF PASCO'S ATTEMPT TO NEUTER CONDITION # 14 OF THEIR LEGALLY BINDING CONTRACT WITH THE BEXLEY FAMILY IN THE 2013 ROE AGREEMENT.**

## **Revised Biological Assessment Report**

for

### **Ridge Road Extension**

PREPARED FOR:

Pasco County Engineering Services Department

PREPARED BY:

CARDNO, INC.  
3905 CRESCENT PARK DR  
RIVERVIEW, FLORIDA 33578  
April 2016  
**Volume I of III**  
**Report &**

## PAGE 2-1

The remainder of this Biological Assessment Report has been prepared following a species account format. Each species account includes:

- a general discussion of the listing status and species' natural history;
- past and current occurrence of the species within the study area;
- species-specific action area;
- environmental survey methods and results;
- effects determination (direct, indirect, and interrelated/interdependent effects);
- cumulative effects; and
- conclusion.

Effects of the proposed action that must be considered include interrelated and interdependent actions. The FWS consultation regulation defines these effects in 50 CFR 402.2 Effects of Action as: "Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration". **The proposed Extension is a generally limited access roadway with an expected requirement of the USACE permit that no additional access points be permitted.** The only access points are to existing areas of use that require access. Access to all other properties that may be developed in the future could be obtained via existing roadways. The one development east of Suncoast Expressway that connects to the Extension will likely be constructed as planned only if the Extension is constructed. Therefore, there are no additional interrelated or interdependent actions associated with this proposed roadway.

**COMMENT INSERT—THAT ROE AGREEMENT ABOVE DATED 2013 IS AT:**

**<http://www.pascocountyfl.net/DocumentCenter/View/27384/Attachments---Bexley-Second-ROE-for-Ridge-Road-Extension-l?bidId>**

### **CONCLUSION TO PART 2A**

**FROM THE EVIDENCE PRESENTED IN PART 2 ABOVE, IT IS CLEAR THAT THE BEXLEY FAMILY SINCERELY BELIEVES IN PRIVATE PROPERTY RIGHTS AS ENSHRINED IN THE U S CONSTITUTION. THEY HAVE NO TRUST IN WHAT PASCO COUNTY MAY PROMISE TO GET WHAT THEY WANT (ACCESS TO THE REMAINING BEXLEY RANCH'S OVER 3,600 ACRES) SO THAT REQUIREMENTS OF THE MAY 11, 2007 ACOE RAI CAN BE ACHIEVED.**

**PART 2B—THE BEXLEY FAMILY HISTORY OF NO COOPERATION WITH PASCO COUNTY AND EMPHASIS ON THEIR U S CONSTITUTION FIFTH AND FOURTEENTH AMENDMENT RIGHTS TO MAKE DECISIONS REGARDING THEIR PRIVATE PROPERTY.**

THE MAY 11, 2017 ACOE RAI REQUESTED THAT 11 TASKS BE COMPLETED SO THE APPLICATION REVIEW, INCLUDING THE FORMAL CONSULTATION WITH THE USFWS, COULD PROCEED. MANY OF THOSE TASKS ARE NOT POSSIBLE DUE TO THE FACT THAT THE BEXLEY FAMILY, CURRENT OWNERS OF OVER 3,600 ACRES OF MODERATE TO PRISTINE WETLANDS EAST OF THE SUNCOAST PARKWAY, HAVE DENIED ALL ACCESS TO PASCO COUNTY. THE NEXT PART OF COMMENT # 22 WILL EXAMINE THE REASONS WHY THIS ACCESS DENIAL IS SO ABSOLUTE. IT IS DESIGNED TO GIVE THE ACOE A MORE COMPLETE UNDERSTANDING OF THAT NO-ACCESS SITUATION, AND TO QUESTION THE MONTH-AFTER-MONTH PASCO SUBCONSULTANT DAWSON & ASSOCIATES' CLAIMS THAT THERE ARE ONGOING "CONSULTATIONS" WITH THOSE PROPERTY OWNERS WITH POTENTIAL 'AGREEMENTS' IN SIGHT.

THIS LACK OF ACCESS, AND THE UNAFFORDABLE COST FACTOR TO PASCO, ARE THE TWO MAIN REASONS WHY THEY HAVE ABANDONED PHASE 2 AND WANT TO, ACCORDING TO THE 09/2018 PUBLIC NOTICE, RELEGATE ALL OF THE ENVIRONMENTAL IMPACTS, MITIGATION, AND CONSTRUCTION DUE TO THE 7 NEW INTERSECTIONS TO A FUTURE PHANTOM ENTITY.

THE EMAIL BELOW, FROM THE BEXLEY'S ATTORNEY AMY BOULRIS TO COUNTY ATTORNEY DAVID GOLDSTEIN, IS AN EXPRESSION OF THE BEXLEY'S FEELINGS OF 'DISCOMFORT' WITH PASCO'S PROPOSAL OF A CONSERVATION EASEMENT AROUND THE MIXED-USE PARCELS ISOLATING THOSE 2 PARCELS FROM THE REST OF THEIR RANGLANDS. IT OCCURRED IN 2017 WHEN THEY STILL OWNED THAT PARCEL AND BEFORE THEY SOLD THE 2,900-ACRE PARCEL TO LENNAR HOMES. IT IS BUT ONE EXAMPLE OF THE DISTANCE BETWEEN PASCO AND THE BEXLEY FAMILY.

**From:** Boulris, Amy [<mailto:ABoulris@gunster.com>]

**Sent:** Friday, October 20, 2017 5:05 PM

**To:** David Goldstein

**Subject:** Proposed RRE Permit Condition

David,

I am replying to you instead of Mr. Beneck because of legal implications of the email below. **As you can imagine, the Bexley's are not comfortable with this approach and we would like to set a time to discuss (certainly before any response on behalf of the Bexley's). Could you, Sam Beneck, and David Biles, be available next Friday morning, preferably in Tampa?**

Sincerely,  
Amy Brigham Boulris | Shareholder  
600 Brickell Avenue  
Brickell World Plaza  
Suite 3500  
Miami, Florida 33131  
P 305-376-6062 F 305-376-6010  
[gunster.com](http://gunster.com) | [aboulris@gunster.com](mailto:aboulris@gunster.com)

**COMMENT INSERT—THE FOLLOWING EVIDENCE SUPPORTS THE FACT THAT THE BEXLEYS HAVE BEEN, AND STILL ARE, UNCOOPERATIVE TOWARD PASCO COUNTY REGARDING ANY ACCESS TO THEIR PRIVATE PROPERTY. THE SINGLE EXCEPTION TO THAT OCCURRED IN 2013 FOLLOWED BY A BETRAYAL. IT IS DOUBTFUL THE BEXLEYS WILL EVER ALLOW THAT TO HAPPEN TO THEM AGAIN.**

**BELOW IS FROM A 2005 REPORT TO THE PASCO BOCC BY THE THEN COUNTY ATTORNEY ROBERT SUMNER NOTIFYING THE BOCC OF THE BEXLEY'S DENIAL OF ACCESS.**

TO:

Honorable Chairman \_\_\_\_ Members of the Board of County Commissioners

DATE: 07/19/05 FILE:CAO05-0056



FROM: Robert D. Sumner County Attorney

SUBJECT: Ridge Road Extension Status Report (BCC: 07/26/05; 1:30 p.m.; DC)

REFERENCES: All Commission Districts

It is recommended that the data herein presented be given formal consideration by the Board of County Commissioners.

DESCRIPTION AND CONDITIONS:

Please find before you for your consideration a discussion of the Ridge Road Extension Project (RRE) and the permitting status.

Serenova History:

As indicated by Attorney Varn, the permit amendment with SWFWMD to replace the Mableridge property with the Five Mile Creek (FMC) corridor as mitigation for RRE has been at a standstill **since Mr. Bexley denied Biological Research Associates, the County's environmental consultant, access to the FMC corridor in early March, 2005.** Pursuant to the County's request, SWFWMD has given an extension of time until November 10, 2005, in order for the County to provide information as to the FMC corridor mitigation area. This inability to access the FMC corridor will likewise soon delay the COE permit since the County needs to be able to use this time while the COE and the reviewing agencies review the County's April, 2005 submittals and June, 2005 wildlife survey report, to **access the FMC corridor to gather the necessary data** and information relative to the required evaluation of the wetlands under the uniform mitigation assessment methodology and prepare a proposed restoration and management plan. **There has been no indication to date to this office that the County will be able to work out an agreement with Mr. Bexley and his attorneys to access and acquire the FMC corridor or to acquire the right-of-way necessary for Phase II from Mr. Bexley** even though Phase II was initially planned with the Bexley family in conjunction with Bexley's agreement to donate the right-of-way. At this time, we do not recommend the initiation of legal proceedings to gain access to the property or eminent domain proceedings to acquire the mitigation area. Therefore, **we must reach agreement with Mr. Bexley to obtain the right to access the property and on the value of the Bexley road right-of-way and Five Mile Creek Corridor in order for this project to proceed.**

In sum, in order for the COE permitting and the SWFWMD permit amendment not to be delayed, **Biological Research Associates needs to access the property and begin their work no later than September 1, 2005.**

Options/Required Action:

1. Continue to permit RRE (both phases).
  - \* Need access to Bexley Five Mile Creek Corridor property no later than September 1, 2005.
  - \* Need to agree on the value of the Bexley right-of-way.
  - \* Need to agree on the use of Bexley's Five Mile Creek Corridor as the mitigation area and the value of same.
2. Permit only Phase I of RRE (Moon Lake to Suncoast Parkway)
  - \* *Abandon plans for Phase II, including amendments to the Comprehensive Plan and MPO Long Range Plan.*
  - \* *Amend the COE permit application and modify the SWFWMD permit. The County's current SWFWMD permitted mitigation package without Mablebridge or the Five Mile Creek Corridor is sufficient for all Phase I wetland impacts. The County has agreements for all Phase I right-of-*

*way. The COE has recently advised that this is a viable option and would eliminate federal agencies' concerns of secondary impacts.*

3. *Abandon the RRE (both phases).*

\\Bccatty01\County\_Data\cau4\Public\Ridge Road Extension\05-0056.BCC 7.26.05 (Status Report).doc

cc: John J. Gallagher, County Administrator

Bipin Parikh, P.E., Assistant County Administrator, Development Services Michele L. Baker, CEM, Program Administrator for Engineering Services Jake Vam, Esq. J. Steve Godley, Biological Research Associates

**COMMENT INSERT--BELOW ARE MEDIA ARTICLES THAT PROVIDE EVIDENCE THAT AS EARLY AS 2005 (AS SEEN ABOVE) THERE HAS BEEN A SPIRIT OF NON-COOPERATION FROM THE BEXLEY FAMILY WITH PASCO COUNTY. THE BEXLEYS HAVE, FOR THE MOST PART, REFUSED ANY COOPERATION WITH PASCO COUNTY WITH REGARD TO PASCO'S REQUESTS FOR ACCESS TO THEIR RANCLAND UNTIL 2013 WHEN THEY SIGNED A ROE AGREEMENT WITH PASCO. PASCO'S ATTEMPTED VIOLATION OF THAT ROE VIA THE ACOE RESULTED IN CREATING ENORMOUS HOSTILITY BY THAT FAMILY TOWARDS PASCO COUNTY. THE RESULT HAS BEEN THE CURRENT ABSOLUTE DENIAL BY THE BEXLEYS OF ALL ACCESS TO THEIR LANDS FOR THE PURPOSE OF CONDUCTING THE REQUIRED WILDLIFE SURVEY UPDATES OR GEOTECHNICAL WORK NECESSARY TO THE REVIEW OF THE RRE MOD 7 PERMIT APPLICATION. AS OF 11/2018, THAT DENIAL HAS LASTED FOR OVER A YEAR.**

**THESE ARTICLES CAN ALSO SERVE AS HISTORICAL BACKGROUND TO THE PROPOSED RRE PROJECT FOR THE READERS WHO MAY NOT BE FAMILIAR WITH THE YEARS OF CONTROVERSY THAT SURROUNDED THIS PROJECT.**

**THE ARTICLES ARE IN DATE ORDER STARTING WITH THE OLDEST. THE ARTICLE IMMEDIATELY BELOW WAS ABRIDGED.**

County Presses Road Plans  
By JULIA FERRANTE  
[jferrante@tampatrib.com](mailto:jferrante@tampatrib.com)

09/22/05

County officials are examining several properties near the proposed Ridge Road extension that could be used to compensate for wetlands destroyed by the east-west connector and ultimately move the project forward.

Mariano said he is much more confident about completing the project than he was two months ago, **when attorneys told the board Bo Bexley adamantly refused to allow engineers on his property to study his land.** The board at that time discussed the possibility of truncating the road project to start at Moon Lake Road and end at the Suncoast Parkway rather than at U.S. 41.

**AND**

Jun 5, 2005 (EXCERPTED)

## **Offsetting Development? It's A Little Give And Take**

By KEVIN WIATROWSKI  
[kwiatrowski@tampatrib.com](mailto:kwiatrowski@tampatrib.com)

**WESLEY CHAPEL** - Faced with destroying 60 acres of wetlands, the developers of Cypress Creek Town Center set out to find replacement acres they could preserve elsewhere in Pasco County.

There were limitations:

\* It had to meet the guidelines of the Southwest Florida Water Management District and the U.S. Army Corps of Engineers.

Environmentalists see mitigation banks as a way to preserve wetlands without stifling progress. The banks preserve sensitive land by creating a market-driven way for builders to offset damage in one area by buying bank credits, thereby protecting wetlands elsewhere.

Landowners' indifference may be the biggest obstacle toward establishing mitigation banks in Pasco.

**Don Ross, who established a mitigation bank in Sarasota, found little interest when he approached the Bexley family about buying land for a bank between the Suncoast Parkway and U.S. 41. The property - a hot commodity in Swiftmud's eyes - could have helped create a bridge between the Serenova preserve, owned by the Department of Transportation, and Tampa Bay Water's Crossbar Ranch wellfield.**

There is a trust factor when you start talking about this kind of esoteric stuff like bundling rights and parsing them out over time."



## **Bexley family members did not respond to interview requests.**

The good news is you can make some of these connections with relatively few property owners," said Swiftmud's Hull. `` **The bad news is if those property owners aren't interested, there's nowhere for you to go.**''

*Reporter Kevin Wiatrowski can be reached at (813) 948-4201.*

**This story can be found at:** <http://pasco.tbo.com/pasco/MGBYPKCBK9E.html>

**AND**

## Road Project May Threaten Wildlife - ENDANGERED WOODSTORKS, JAYS AT RISK, STUDY SAYS

Tampa Tribune, The (FL)

July 23, 2005

Author: JULIA FERRANTE; [jferrante@tampatrib.com](mailto:jferrante@tampatrib.com)

**Estimated printed pages: 3**

By JULIA FERRANTE

[jferrante@tampatrib.com](mailto:jferrante@tampatrib.com)

A wildlife survey along the proposed Ridge Road extension route found endangered woodstorks and eastern indigo snakes and indicated the likelihood of threatened Florida scrub jays, county and federal officials said this week.

The county-commissioned study findings have prompted U.S. Army Corps of Engineers Project Manager **Mike Nowicki** to conclude that construction of an east-west connector "may affect" the birds and their habitat. The corps is seeking a U.S. Fish and Wildlife Service consultation to confirm or refute that conclusion, he said.

Nowicki also determined the road project "may affect/is not likely to affect" eastern indigo snakes, which are highly adaptable, if certain steps are taken to restore their habitat. He is asking the Fish and Wildlife Service to agree with that conclusion.

County officials are seeking a permit to extend Ridge Road from Moon Lake Road to U.S. 41. The plan is to construct four lanes from Moon Lake Road to the Suncoast Parkway and two lanes from the Suncoast to U.S. 41. The road, to be a hurricane evacuation route and alternative to State Roads 52 and 54, eventually could be expanded.

The county has faced numerous delays in the permitting process, partly because the proposed route crosses wetlands and bisects the Serenova Preserve. The 6,533-acre Serenova area and another portion of the Jay B. Starkey Wilderness Preserve were set aside to compensate for construction of the Suncoast.

Jake Varn, a Tallahassee attorney handling the Ridge Road extension project for Pasco County, said the corps rulings on the birds and snakes were expected. He is confident the project will move forward, provided the county is able to work out other issues with wetlands and property rights.

#### Report To Commission

Varn and the wildlife survey consultant are slated to address the county commission at a 1:30 p.m. meeting Tuesday at the historic Pasco County Courthouse in Dade City. Dan Rametta, of Land O' Lakes, also will give a presentation asking county officials to drop their plans for the road.

Nowicki said the county's permit application still is incomplete. He said Pasco must provide more information about how it would avoid and minimize impacts on wetlands and compensate for the wetlands destroyed by the road.

Engineers have redesigned the road to minimize wetland impacts, but those plans have not been approved by the corps.

"The county has gone to great lengths to minimize and avoid wetlands," Varn said.

"When you are trying to get from point A to point B, there are only so many options. We have to start the Ridge Road extension at Ridge Road and Moon Lake Road. We have to go under the underpass on the Suncoast. Once you are there, you don't want to end the road in the middle of nowhere."

The county also must provide additional project drawings and responses to public comments made by 10 major objectors to the project, Nowicki said. The corps will ask the objectors to comment on the project as it stands now — with all changes and modifications since public comments were solicited in 2000.

The county then must respond to the new comments.

"The bottom line is that it really hasn't moved toward revisions that address the comments," Nowicki said.

Varn said Pasco has provided responses.

**"The question is: Are those responses adequate? Only time will tell," he said.**

One of the bigger obstacles for the Ridge Road extension, Varn said, is finding property to set aside for wetlands destroyed by the project. The county initially planned to buy and put into conservation a 240-acre parcel called Mablebridge, but the owners of that property have decided to develop it.

"The county found itself in a position where it is not going to be able to acquire that property and make it available for mitigation," Varn said. "We had to find other property.

County officials have set their sights on a larger parcel dubbed the Five-Mile Creek Corridor as a possible mitigation area, but they face another obstacle. **The property owner, James "Bo" Bexley, has not granted access to study his land.**

"We are of the view that the Five-Mile Creek Corridor is equal to or better than the Mablebridge property," Varn said. **"Unfortunately, for some time, we have tried to gain access to the Bexley property to satisfy some concerns that it is a suitable mitigation site. We are unable to get additional information on Five-Mile Creek because Mr. Bexley won't give us access to the property."**

#### Strategy On Key Property

Varn said he will ask the county commissioners if they want to initiate eminent domain proceedings with Bexley or to continue with a diplomatic approach. The board also is set to consider paying Varn's law firm another \$25,000 to continue defending the road project. Fowler White Boggs Banker P.A. has been paid \$175,000, all but about \$5,000 of which has been spent.

"As the attorney trying to plot the course to bring this to termination, they [the board] are the decision makers. I'm here to charge the hill, if they could just tell me the hill they want to charge," he said.

Another option would be to find a different property for mitigation or to hold off on Phase II, extending the road from the Suncoast to U.S. 41, Varn said.

"When you do mitigation, it is always better if you do it in close proximity to the work you are doing," Varn said. "It would be difficult to find something equal to what we could do with Five-Mile Creek.

"From the county perspective, Five-Mile Creek offers benefits other land would not. It is very close to the corridor and fits in with the county's long-term plan to establish trails and [conservation] corridors."

**AND**

County Presses Road Plans

By JULIA FERRANTE

[jferrante@tampatrib.com](mailto:jferrante@tampatrib.com)

09/22/05

County officials are examining several properties near the proposed Ridge Road extension that could be used to compensate for wetlands destroyed by the east-west connector and ultimately move the project forward.

Mariano said he is much more confident about completing the project than he was two months ago, **when attorneys told the board Bo Bexley adamantly refused to allow engineers on his property to study his land**. The board at that time discussed the possibility of truncating the road project to start at Moon Lake Road and end at the Suncoast Parkway rather than at U.S. 41.

**AND**

## **County wants land deal with Bexleys; [STATE Edition]**

*BRIDGET HALL GRUMET. St. Petersburg Times. St. Petersburg, Fla.: Jul 27, 2005. pg. 1*

**For now, the fate of the Ridge Road extension rests with the Bexley family.**

County officials want to use more than 300 acres of Bexley land, known as Five Mile Creek, as a conservation area to offset the impact of the proposed limited-access highway.

**There's only one problem. James "Bo" Bexley won't let county- hired consultants on the tract to gather the environmental data needed by the U.S. Army Corps of Engineers and the Southwest Florida Water Management District.**

Without that information, Swiftmud cannot update the permit granted for the road in 2003, and the Army Corps permit application remains in limbo.

"I'm frustrated," said Jake Varn, the attorney representing Pasco County in its five-year permitting saga. "I want to get this darn thing done and get a decision up or down."

So the County Commission drew a line in the sand Tuesday. **If officials can't work out an agreement with the Bexleys by Sept. 1**, the county will start looking for a new mitigation site.

What makes Varn think Bexley might change his mind in the next month?

"Lightning strikes every once in a while," Varn told the Pasco Times. "We're always the optimists."

Commissioners also voted at the meeting in the historic courthouse in Dade City to earmark another \$25,000 for Varn's firm, bringing the attorney's total earnings to \$200,000 on the project.

The county has the conservation tracts all lined up for the first phase of the road, which would run from Moon Lake Road to the Suncoast Parkway. The Bexley tract would be needed to offset the impacts of the second phase, which would run from the parkway to U.S. 41.

The county originally planned to use the 240-acre Mablebridge property for mitigation on the second leg, but the owners opted to develop it. Varn said the Five Mile Creek property is better, as it could link the Connerton and Serenova preserves.

While County Administrator John Gallagher said he was "optimistic" about reaching an agreement with the Bexleys, some commissioners were less hopeful.

"I see this Five Mile Creek as a pie in the sky," said commission Chairwoman Pat Mulieri.

**Commissioners were unswayed by a 15-minute presentation by Dan Rametta of the Citizens for Sanity, who urged them to drop the road project that had become "a financial black hole." He showed a short videotape of the wetlands that would be paved over if the road goes through.**

"Pay close attention to the wetlands," he told commissioners as the videotape started. "This will be the last time you see them if this project goes through."

Bridget Hall Grumet can be reached in west Pasco at 869-6244 or toll-free at 1-800-333-7505, ext. 6244. Her e-mail address is [bhall@sptimes.com](mailto:bhall@sptimes.com).

AND



Aug 30, 2005

## Ridge Road Extension Plan Hits Roadblocks

By JULIA FERRANTE

[jferrante@tampatrib.com](mailto:jferrante@tampatrib.com)

**NEW PORT RICHEY** - Sometime in the mid-1980s, Pasco County planners drew a line from east to west on future transportation maps, and dreams for the Ridge Road extension were born.

County Commissioner Ted Schrader was **less hopeful about gaining access to the Bexley property** and said he would support ending the road at the Suncoast.

**"I'm not very optimistic, quite honestly," he said. "It seems there is a lot of resistance. If he's not letting survey crews and county personnel on his property, why all of a sudden would that change?"**

### Wildlife Ruling

The county also is awaiting an opinion from the U.S. Fish and Wildlife Service about whether endangered woodstorks and eastern indigo snakes and threatened Florida scrub jays will be hurt by the project.

Nowicki made a determination that the road "may affect" woodstorks and scrub jays and it "may affect/is not likely to adversely affect" indigo snakes if the county takes steps to restore habitat.

Woodstorks were spotted on the Ridge Road extension route in a county-commissioned survey, Nowicki said. Scrub jays were not, but a Florida Natural Inventories Team has seen

them, and Swiftmud, which owns the Serenova, has restored scrub jay habitat, increasing the likelihood that scrub jays have or will return to the property.

Fish and Wildlife may disagree with Nowicki, determine that there is not enough information to agree or disagree or determine that woodstorks and/or scrub jays would be jeopardized.

The corps may accept or reject that opinion. If it is determined that an endangered or threatened species may or will be affected, the corps can reject the permit or force the county to take measures to reduce affects on the species.

Fish and Wildlife also has designated the Serenova an aquatic resource of national importance, Nowicki said. If it is determined that the road extension will affect the aquatic resource, the county would have to find another route or the permit could be rejected.

The county disagrees that the Ridge Road extension would destroy fish and wildlife resources.

*Reporter Julia Ferrante can be reached at (813) 948-4220.*

**This story can be found at:** <http://pasco.tbo.com/pasco/MGBMOFMESBE.html>

**AND**

## **County Presses Road Plan (EXCERPTED)**

Tampa Tribune September 22, 2005

By JULIA FERRANTE

**After months of failed attempts to secure the 300-acre Five-Mile Creek Corridor north of the route from owner James "Bo" Bexley**, county officials are working with another faction of the Bexley family to buy land to the south, County Commissioner Jack Mariano said.

Relatives of the late Bud Bexley, who with the help of Newland Communities are developing a southern portion of the ranch, are considering selling property to the county to push forward the long-delayed road project, Craig Bexley, Bud's son and Bo's nephew, confirmed.

AND

## Extension Of Ridge Road Approved

By JULIA FERRANTE [jferrante@tampatrib.com](mailto:jferrante@tampatrib.com)

Published: Sep 24, 2005

NEW PORT RICHEY County commissioners voted 4-1 Tuesday to proceed with plans to extend Ridge Road to U.S. 41, despite reservations about additional costs and delays for the easternmost portion of the project.

The county plans to build the road in sections, with the first phase connecting Moon Lake Road and the Suncoast Parkway and Phase 2 extending from the parkway to U.S. 41. County Administrator John Gallagher said the county has secured most of the property needed to compensate for wetlands destroyed by Phase 1, and officials are examining several properties as potential mitigation for Phase 2. He asked for more time to negotiate sales of the Phase 2 property and right of way.

Gallagher estimated it would be six months before the county hears whether the U.S. Fish and Wildlife Service will require additional studies of wildlife in the area. He asked to use that time to work out the property issues.

"I see light. When I don't see light, I'll come back to you," he said.

The board had set a deadline of Sept. 1 to secure the 300-acre Five-Mile Creek Corridor north of the extension route from **owner James "Bo" Bexley as mitigation for Phase 2, but Bexley has refused to grant access to his property.**

The Southwest Florida Water Management District, known as Swiftmud, approved the road with the understanding that a 240-acre parcel known as Mablebridge would be put into conservation to compensate for Phase 2. That property since has been approved for development, so county officials set their sights on the Five-Mile Creek Corridor. Swiftmud would have to approve any substitute mitigation.

Gallagher said several property owners stepped forward and offered their land as possible mitigation after hearing of the county's difficulties with Bexley. The properties range from a combined 240 acres to 884 acres and have various environmental significance.

**Gallagher said Bexley's attorneys also have told him Bexley is unwilling to convey right of way to a private developer.**



"I think I will get a better deal than a private developer," he said.

**AND**

## **Ridge Road Extension Limbo Gives Rise To Skyrocketing Costs**

By JULIA FERRANTE [jferrante@tampatrib.com](mailto:jferrante@tampatrib.com)

Published: Mar 12, 2006

As county officials work to secure preservation land to compensate for the Ridge Road extension, the cost of building the road and other highways continues to rise.

Estimates for constructing the 8-mile, east-west connector have jumped from \$25 million seven years ago to \$70 million in the latest Capital Improvement Plan. The newest estimates - which are not based on formal bids from construction companies and therefore are rough - likely will increase again when the county revises its long-range plan in coming months, said Michele Baker, program coordinator for engineering services.

Pasco's CIP estimates are based on 85 percent of what the Florida Department of Transportation pays for roads, but that formula has proven unreliable for recent projects, Baker said. The county has begun estimating costs at 100 percent of what the DOT pays to better reflect rising construction and real estate prices. That would bring the Ridge Road extension project to \$82 million, plus inflation. The estimate does not include the cost to the state, which constructed an overpass for the Ridge Road extension along the Suncoast Parkway, nor the price for establishing a wildlife corridor.

"Costs are skyrocketing," Baker said. "There's no question about it. It used to be the county could do things a little cheaper than DOT. That's no longer the case."

If completed, the Ridge Road extension would connect U.S. 19 in west Pasco with the Suncoast Parkway and U.S. 41 in central Pasco. County leaders say it would provide a needed hurricane evacuation route and an alternative to congested state roads 52 and 54. Ridge Road currently ends at Moon Lake Road.

No Good Alternative

County Administrator John Gallagher, who continues to support extending Ridge Road, noted that the alternative, widening state roads 52 and 54, may be as expensive - or more costly.

"At the end of the day, if this road doesn't get built, people will be sorry," Gallagher said.

Assistant County Administrator Bipin Parikh has said there is a "diminishing return" and added expense to expanding highways as opposed to building new ones. Estimates for adding two more lanes to state roads 52 and 54 range from \$60 million to \$120 million. Those costs could increase, depending on how many businesses and homes are in the way.

The Ridge Road extension has appeared on Pasco's future transportation maps as a four- to six-lane divided highway for more than 20 years, but it has been delayed many times because of permitting issues and opposition from environmentalists. The civic group Citizens for Sanity and others oppose the road extension because its proposed route bisects the 6,533-acre Serenova Preserve, which was set aside to make up for damage from the Suncoast Parkway, a commuter highway between Tampa and Brooksville.

The Serenova property once was slated for a large residential development, but that project never got off the ground, so county leaders agreed to give up the land for the parkway. As part of the agreement, right of way was reserved for the Ridge Road extension.

The latest delays in the project are due to difficulty securing land for preservation, restoration or other environmental enhancements to compensate for wetlands destroyed. The Southwest Florida Water Management District, which owns the Serenova, issued a permit for the road in 2003, but the approval was based on a plan to buy and set aside property owned by the James P. "Bo" Bexley family. **Bexley has, however, refused to grant the county access to study his property**, known as the "5-Mile Creek Corridor." So the county decided to pursue other options. Swiftmud and the U.S. Army Corps of Engineers, which continues to review the permit, would have to sign off on any new plans.

Corps Project Manager Mike Nowicki said his agency still is waiting for a formal consultation from the U.S. Fish and Wildlife Service to determine whether construction of the Ridge Road extension would hurt threatened and endangered species. An initial survey found that the road "may affect" Florida scrub jays and woodstorks. The county also must resubmit the permit application, showing alternative routes and detailing a wetlands mitigation plan.

**From:** Michele Baker [mailto:mbaker@pascocountyfl.net]

**Sent:** Monday, November 06, 2006 4:05 PM

**To:** Shirley R. Denton; Kevin Atkins; Steve Godley

**Cc:** Robert Tietz

**Subject:** RE: Draft Ridge Road SWFWMD Wetland Mitigation Plan Report

Hi guys – thanks for getting the SWFWMD Plan revised. Now it is time to deal with the ACOE. **I received confirmation on Friday from Bexley's attorney that he will not grant access to his property.** Therefore, we need to go ahead and prepare the report for the COE based on extrapolation. When will we have a report to review?

Also, Kevin please call me tomorrow afternoon and let's talk about your conversation with Mike. I would like to get a better feel about what he doesn't like, how much more of what type of land I might need, and I would like to go up with you and meet with him personally the way we have been working with SWFWMD.

Thanks, Michele

\*\*\*\*\*

Michele L. Baker  
Program Administrator  
for Engineering Services  
O: 727-847-8140 ext. 8756  
F: 727-847-8084  
[mbaker@pascocountyfl.net](mailto:mbaker@pascocountyfl.net)

**COMMENT INSERT—AND 6 YEARS LATER THE 'PROBLEMS' WITH THIS APPLICATION (BELOW) JUST KEEP GETTING BIGGER AND BIGGER.**

## **Corps wants more information on Ridge Road extension plan**

By Laura Kinsler | Tribune Staff

Published: July 27, 2012

Updated: March 18, 2013 at 09:57 PM

LAND O'LAKES - Pasco County won't be getting an answer on its permit request for the proposed Ridge Road extension anytime soon. The Army Corps of Engineers this week sent the county a six-page letter asking for additional information — including a new analysis of alternative routes. "We've done the alternatives analysis four or five times," said Michele Baker, chief assistant county administrator. "It's very frustrating, but we want this permit. So we'll do it again." Ridge Road's eastern end is at Moon Lake Road-De Cubellis Road. Pasco County has proposed extending the road east by eight miles to the Suncoast Parkway and later to U.S. 41. **The county has been seeking a permit from the corps for 12 years, and that's one of the problems, said Kevin D. O'Kane, chief of the**

**Tampa permits section. "The analysis is now outdated,** as it relies on the 2025 Long Range Transportation Plan and does not account for road improvements that have occurred since 2003," O'Kane wrote.

In all, the Corps of Engineers listed 22 issues for the county to readdress. For example, **the corps disagreed with the county's analysis regarding whether Ridge Road would be more effective as a hurricane evacuation route than simply adding the same number of lanes to existing roads.** The county's analysis "states that a new lane added to an existing roadway does not have the same vehicle capacity as a new roadway." The county assigned all the Ridge Road alternatives the highest possible score while giving all other options a zero. "The Corps finds this analysis arbitrary, as any road improvements would be expected to provide some improvement in hurricane evacuation," **O'Kane wrote. He also took issue with the environmental study, noting that it considered the proposed roadway's effects on wetlands but not on streams.**

Opponents view the proposed road through the 6,000-acre Serenova Tract as an intrusion into a delicate wildlife area and a vehicle for overdevelopment in Pasco. **The U.S. Environmental Protection Agency has recommended denial of the permit, saying it would have "substantial and unacceptable adverse impacts" on an aquatic resource of national importance.**

Hurst said the corps wants Pasco County to consider elevating the entire 2.1-mile segment of road that traverses the Serenova Tract. "That is the area of most concern," she said. **The corps received about 1,600 letters** regarding the Ridge Road project during the public comment period last winter. Hurst said the letters were pretty well divided, but **more were "slanted toward being against the project."**

The county has 30 days to respond to the corps' request for information. "I think we have all the data," Baker said. "It's just a matter of pulling it together."

**PART 2C---THE NEED FOR ACCESS TO ALL PRIVATE PROPERTY EAST OF THE SUNCOAST PARKWAY TO PROVIDE THE INFORMATION/DATA REQUIRED BY VARIOUS U S ENVIRONMENTAL LAWS.**

## **INTRODUCTION TO PART 2C**

**THE FOLLOWING PROVIDES EVIDENCE THAT THE APPLICANTS ARE FULLY AWARE OF THE CRITICAL NEED TO GAIN ACCESS TO PERFORM THE TASKS REQUIRED TO RECEIVE A CWA 404 PERMIT. AMONG THOSE TASKS ARE NEW SURVEYS FOR LISTED SPECIES WHICH WERE DONE IN 2013 AND ARE NOW, IN LATE 2018, OUTDATED. WILDLIFE SPECIES MOVE AS THEY SEARCH FOR MORE FORAGING AND MATING OPPORTUNITIES AND THE RRE ROW IS SURROUNDED BY PRESERVED CONSERVATION LANDS THAT ARE FILLED WITH VARIOUS WILDLIFE SPECIES.**

**FOR THE READER WHO IS NOT FAMILIAR WITH THE LISTED SPECIES SURVEY REQUIREMENTS AND METHODOLOGIES, THE EVIDENCE BELOW WILL GIVE THAT READER AN INTRODUCTION TO THE REQUIREMENTS FOR VARIOUS SURVEYS AND THEIR VALIDITY TIME PERIODS.**

**IN THE FIRST LETTER BELOW, THE THEN JACKSONVILLE FIELD SUPERVISOR FOR THE USFWS, DAVE HANKLA, STATED THAT LISTED SPECIES SURVEYS MUST NOT BE “OLDER THAN THREE YEARS.” THE LAST SURVEYS WERE DONE IN 2013, 5 YEARS AGO, AND THEREFORE MUST BE REDONE. THEY CANNOT BE ‘EXTRAPOLATED,’ AS THE APPLICANT HAS SUGGESTED. THE REASON FOR THAT SUGGESTION IS DUE TO THE FACT THAT THE APPLICANT HAS NO ACCESS TO THE REMAINING OVER 3,600 ACRES OF THE BEXLEY RANCH.**

**IF THE REQUIRED SURVEY DATA CANNOT BE COLLECTED, THEN THIS APPLICATION IS OVER, OR IT SHOULD BE. ANY FURTHER DELAY ON THE PART OF THE ACOE CAN BE SEEN AS ‘FAVORING’ THE APPLICANT. THE ACOE IS OBLIGATED BY FEDERAL LAWS TO BE OBJECTIVE AND NEITHER BE A PROPONENT NOR AN OPPONENT OF ANY APPLICATION.**



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

6630 Southpoint Drive, South  
Suite 310  
Jacksonville, Florida 32216-0912

IN REPLY REFER TO:

FWS Log No. 41910-2006-F-4330

December 18, 2007

Colonel Paul L. Grosskruger, District Engineer  
U.S. Army Corps of Engineers  
Regulatory Division, South Permits Branch  
West Permits Section  
P.O. Box 4970  
Jacksonville, Florida 32232-0019  
(Attn: Michael Nowicki)

RECEIVED  
DEC 21 2007  
JACKSONVILLE DISTRICT  
USACE

Dear Colonel Grosskruger:

The U.S. Fish and Wildlife Service has reviewed permit application SAJ-1998-2682 (IP-MN) from Pasco County Board of County Commissions for the proposed Ridge Road Extension, Pasco County, Florida. Included in the correspondence are the responses from the applicant regarding the January 25, 2007, Corp's Request for Additional Information; the July 10, 2006 letter to the Corps; and the revised Wetland Mitigation Plan for Phases I & II. Our comments are submitted in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*).

### Conclusion

The contradiction between the text and plan set for the Pithlachascotee River crossing, including the constraints in the area, as well as the potential effectiveness of the box culvert designs and locations are of concern to the Service. The Service would encourage bridge structures similar to those incorporated into the Suncoast Parkway facility to ensure effective movement of wildlife across the landscape. In general, wildlife surveys for the entire proposed corridor should reflect current conditions with surveys no older than three years. The Service continues to question the appropriateness, the lack of detailed specifics, and the uncertainties of the proposed mitigation. Therefore, in accordance with Part IV(3)(a) of our Interagency Memorandum of Agreement, the Service recommends that the request for a Department of the Army permit for the proposed project be held in abeyance. The Service is willing to meet with the applicant to reach resolution on these issues. If you have any questions regarding this response, please contact Mr. Todd Mecklenborg at (727) 820-3705.

Sincerely,

David L. Hankla  
Field Supervisor

Surveys NO  
older than  
3 years.

LAST F.I. Snake Survey was 5 yrs. Ago - As  
were All other ESA Listed Species surveys.

COMMENT INSERT--AND SPECIFICALLY FOR THE EASTERN INDIGO SNAKE, THE USFWS SURVEY PROTOCOL BELOW STATES THAT A SURVEY IS "...valid for two (2) years from the date of completion..."

[https://www.fws.gov/northflorida/indigosnakes/20110930\\_NFESO\\_EIS\\_survey\\_protocol\\_no\\_appendices.pdf](https://www.fws.gov/northflorida/indigosnakes/20110930_NFESO_EIS_survey_protocol_no_appendices.pdf)

Survey Protocol for the Eastern Indigo Snake, *Drymarchon couperi*,  
in North and Central Florida  
September 2011

### Reporting

The surveyor(s) and their supervisor should sign and date the completed Final Survey Report and data sheets provided in **Appendix B** and submit it to the Service with the following statement included: "I have read and understand the survey protocol for the eastern indigo snake. This report represents a true, accurate and representative description of the results obtained after following this Protocol." The Service will consider the results of the survey protocol to be valid for two (2) years from the date of completion, unless the habitat has been significantly modified.

After reviewing the Final Survey Report with attached data sheets and other relevant information, the Service will determine if incidental take is likely to occur, and may recommend commensurate conservation measures through informal or formal consultation, or Section 10 permit coordination procedures as appropriate. The Service will provide the action agency or applicant with a letter or biological opinion concluding the consultation.

COMMENT INSERT--AND TO FOCUS EVEN MORE ATTENTION ONTO THE NEED FOR NEW LISTED SPECIES SURVEYS NOW IN 2018, THERE IS A LETTER ALREADY IN THE ADMINISTRATIVE RECORD INFORMING THE ACOE THAT ACTUAL OBSERVATIONS HAD BEEN MADE IN THE PAST FOR AT LEAST 2 LISTED SPECIES WITHIN AND NEARBY THE SERENOVA PRESERVE. MEMBERS OF THOSE SPECIES COULD HAVE MIGRATED EAST ONTO THE BEXLEY RANCH AND MAY NOW INHABIT SOME OF THEIR LANDS.

**Next Actions:** The Corps expects receipt of the requested information described above by 30 September 2013. This information will allow the Corps to complete its review. The applicants have also been advised, per 33 C.F.R. § 325.2(d)(5), that if they do not respond with the requested information or a justification why additional time is necessary, then the application will be considered withdrawn or a final decision will be made, whichever is appropriate.

**Issues:** The proposed alignment traverses an 18,000-acre wildlife preserve that was declared an Aquatic Resource of National Importance by USFWS and serves as compensatory mitigation for an unrelated Corps permit. The Florida scrub jay and Eastern indigo snake, federally protected species, have been observed within the preserve.

COMMENT INSERT--FOR THOSE UNFAMILIAR WITH THE LARGE AREAS OF PRESERVED CONSERVATION LANDS IN PASCO COUNTY, THE FOLLOWING SECTION WILL SERVE AS AN INTRODUCTION. PASCO COUNTY ADVERTISES ITSELF AS A TOURIST DESTINATION BRANDING ITSELF AS BEING "ONLY NATURAL," IN LARGE PART BECAUSE OF THOSE LARGE TRACTS OF CONSERVATION LANDS.



THERE ARE NUMEROUS CONSERVATION AREAS SURROUNDING THE 8.4-MILE LONG RRE ROW. THEY ARE THE STARKEY/SERENOVA PRESERVE TO THE WEST, NORTH AND SOUTH, CONNERTON PRESERVE TO THE NORTHEAST, CYPRESS CREEK PRESERVE TO THE EAST, CROSSBAR & AL-BAR WELLFIELD PRESERVE TO THE NORTHEAST, THE SOUTH PASCO WELLFIELD PRESERVE TO THE SOUTH AND THE OLD FLORIDA MITIGATION BANK TO THE NORTHEAST. ANY MEMBER OF A LISTED SPECIES MIGRATING BETWEEN THOSE PRESERVES MAY CROSS THE RRE ROW CORRIDOR. AS SUCH, THE HABITAT ADJACENT, AND IN CLOSE PROXIMITY TO, THAT ROW MUST BE RESURVEYED NOW IN 2018 FOR LISTED WILDLIFE AND PLANT SPECIES.



ALL OF THE ABOVE IS WELL KNOWN TO THE FEDERAL AGENCIES, BUT IT MAY NOT BE AS APPARENT TO THE FEDERAL JUDICIARY OR THE AVERAGE READER. THIS SECTION OF COMMENT # 22 IS DESIGNED TO MAKE IT SO.

BELOW WAS SUBMITTED TO THE ACOE BY PASCO'S BIOLOGICAL SUBCONSULTANT CARDNO IN 2012. IT IS THEIR PROPOSED SURVEY METHODOLOGY FOR THE THEN UPCOMING 2013 SURVEY. IT CLEARLY SHOWS THAT ON-SITE ACCESS TO ALL OF THE RRE ROW MUST OCCUR. ANY CURRENT UPDATING OF THAT NOW OUTDATED SURVEY IS NOW, IN 2018, IMPOSSIBLE WITHOUT THOSE GROUND TRUTHING AND ON-SITE TASKS BEING ACCOMPLISHED, JUST AS THEY WERE IN 2013. THOSE TASKS CANNOT BE "EXTRAPOLATED" NOR GUESSED AT BASED ON PAST SURVEYS.

# Attachment A

## Ridge Road Wildlife Survey Protocol

Prepared for Pasco County

By Cardno ENTRIX

September 28, 2012

### Red-cockaded Woodpecker Surveys

#### *Proposed Survey Methodology*

The survey team will evaluate all such flatwoods within 0.5 mile of the Ridge Road alignment using aerial photography and ground truthing as required by the USFWS methodology. These areas are shown on Attachment B. This habitat level survey is needed to identify the areas with pines 60 years in age or older that are potential nesting habitat. After the habitat survey is complete, a map showing any areas where pines are 60 years in age or older will be developed. Areas preliminarily believed to be suitable habitat (based on aerial interpretation) are shown on the attachment but will be revised if necessary based on 2012 field conditions.

If any areas with pines 60 years in age or older (potential nesting habitat) are discovered, then surveys for cavity trees will be conducted within those areas. The nesting habitat areas will be surveyed for cavity trees of red-cockaded woodpeckers. Potential nesting habitat will be surveyed by running line transects through stands and visually inspecting all medium-sized and large pines for evidence of cavity excavation by red-cockaded woodpeckers. Transects will be spaced so that all trees are inspected. Necessary spacing will vary with habitat structure and season from a maximum of 300 ft between transects in very open pine stands to 100 ft in areas with dense midstory. Transects will be run north-south, because many cavity entrances are oriented in a westerly direction. All transect locations will be mapped using GPS.

# Florida Scrub-jay Survey

## Proposed Survey Methodology

Field Review

height), representative photographs of each station will be taken to verify HSI values. Because most of the field effort will be reaching each station, we also will conduct a minimum of one scrub-jay playback call (described below) at that time. Upon the completion of this initial survey, we will analyze the HSI and playback results, and provide a report to the USACOE and USFWS with recommendations as to which playback stations warrant further surveys, including a stratified random sampling design for stations 0.5 – 2.1 miles from the Ridge Road ROW in sub-optimal habitat as determined from the HSI and playback call results. Until this field review is completed and the results analyzed, it is not possible to quantify reasonable HSI breakpoints for optimal, sub-optimal and non-

habitat playback stations for scrub-jays. Upon approval of this refined survey location map by the USACOE, the remaining Florida scrub-jay surveys will be conducted.

Within the potential habitat areas, playback points will be spaced every 300 - 600 ft within and to either side of the alignment until a width of 3.5 km (approximately 2.1 miles) to either side of the alignment is covered. Where habitat

- Within 0.5 mile of the right of way, all optimal and suboptimal habitats will be surveyed according to the USFWS (2007) protocol. Between 0.5 mile and 2.1 miles (3.5 km) all optimal habitats will be sampled as well as a to be defined sub-sample of sub-optimal habitat. At each of these final sampling points, a high quality tape recording of

# Eastern Indigo Snake

## *Proposed Survey Methodology*

The USFWS indigo snake survey protocol (2011) will be followed, but with an emphasis on sampling scrub and sandhill habitats during the winter months (December – February) when indigo snakes will be concentrated in or near gopher tortoise burrows (Layne and Steiner 1996, Stevenson et al. 2003, Dodd and Barichivich 2007, Stevenson et al. 2009, USFWS 2011). In central Florida the average home range size of Eastern indigo snakes is 202 ha for males and 76 ha for females (Breininger et al. 2011). Thus, for Eastern indigo snakes the action area would include the proposed Ridge Road alignment as well as the average home range size of adult males, which equates to a circular diameter of 1,608 m or about 1.0 mile. Attachment E summarizes the Ridge Road extension

Require  
Access

Two survey options are potentially available for the 1,559.2 acres of habitat: 1) conduct 5 days of human surveys in accordance with the USFWS (2011) indigo snake protocol, or 2) use a trained indigo snake detection dog. At this time, Pasco County seeks approval of both methods, as the only trained indigo snake detecting dog ("C. J." at PackLeader, LLC in Seattle, Washington) is getting old and a new dog would need to be trained. For dog surveys,

Alternatively, if the dog is not available, an additional 4 days of 100% burrow surveys would be conducted in accordance with the USFWS (2011) indigo snake survey protocol with at least two of these days being conducted on "high quality" weather days immediately following a cold front on all 1,559.2 acres of habitat. Our best current estimate is that five days of human surveys would require about 6,060 hours of field effort. In either case, an

The purpose of human and/or detector dog surveys is to confirm with reasonable certainty the presence or absence of Eastern indigo snakes in all segments of the Ridge Road action area where incidental take potentially may occur.

## Gopher Tortoise Survey

### *Proposed Survey Methodology*

The survey team will consist of wildlife biologists who have received FFWCC certification as Authorized Gopher Tortoise Agents or who are designated Assistants to Authorized Agents.

# Listed Plant Surveys

## *Proposed Survey Methodology*

Surveys for Brooksville bellflower must be conducted in March-April as the species is not visible at other times. Surveys consist of walking edges of ephemeral ponds, including woods roads through ecotones of such ponds looking specifically for the species.

Surveys for Cooley's water willow will address moist hardwood forests and rises in hammocks or swamps along the alignment. In practice, such areas are limited and primarily adjacent to the stream crossings. Such areas will be surveyed when the plant is blooming and most recognizable (June-November).

Britton's bear-grass occurs in sandhill and scrub. Surveys of sandhill, scrub, and scrubby flatwoods will be conducted along the alignment using meandering transects. These will be conducted between March and December when the plant is in bloom or fruit as it is most conspicuous during that time frame.

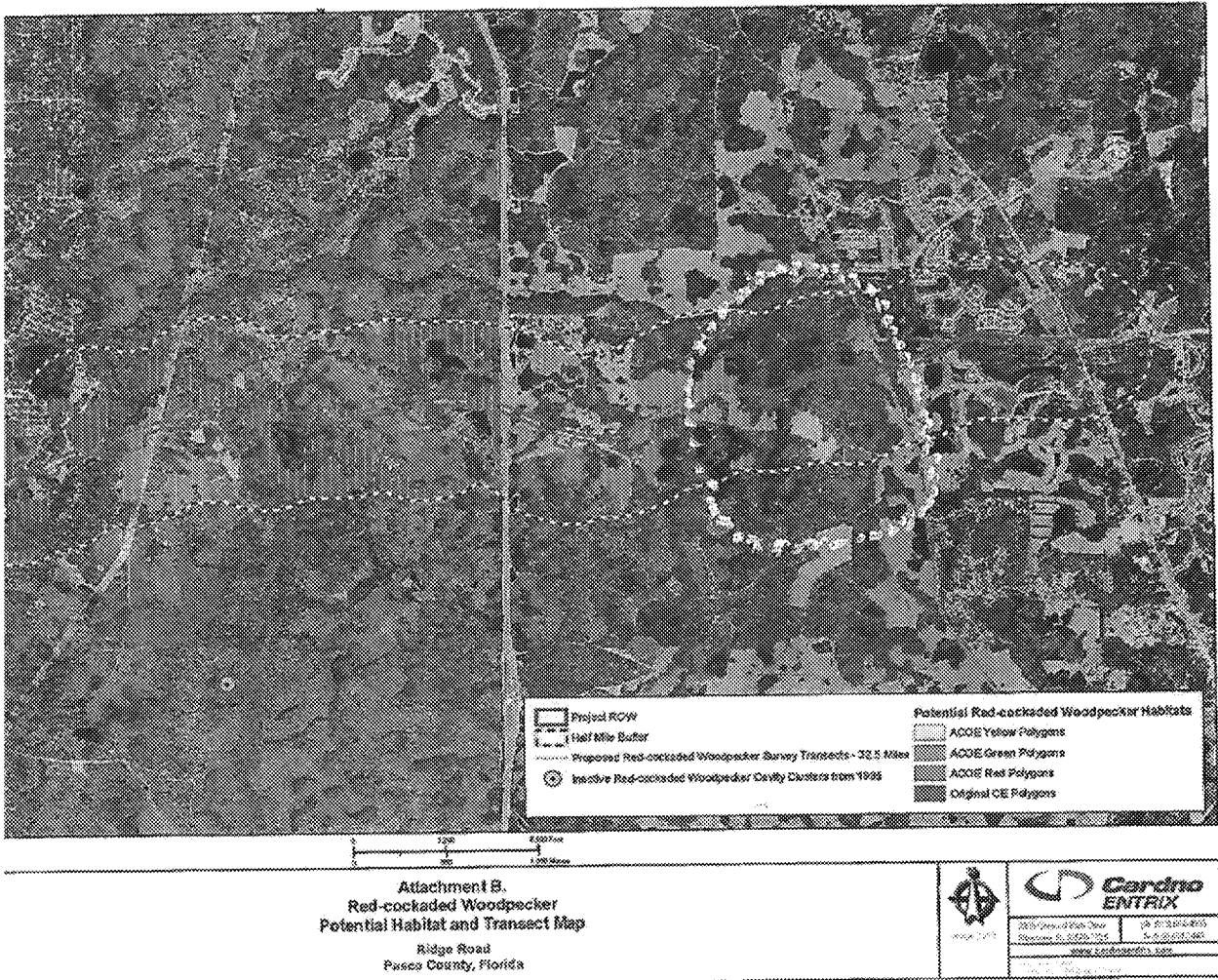
### Update of 2005 Wildlife Survey Results

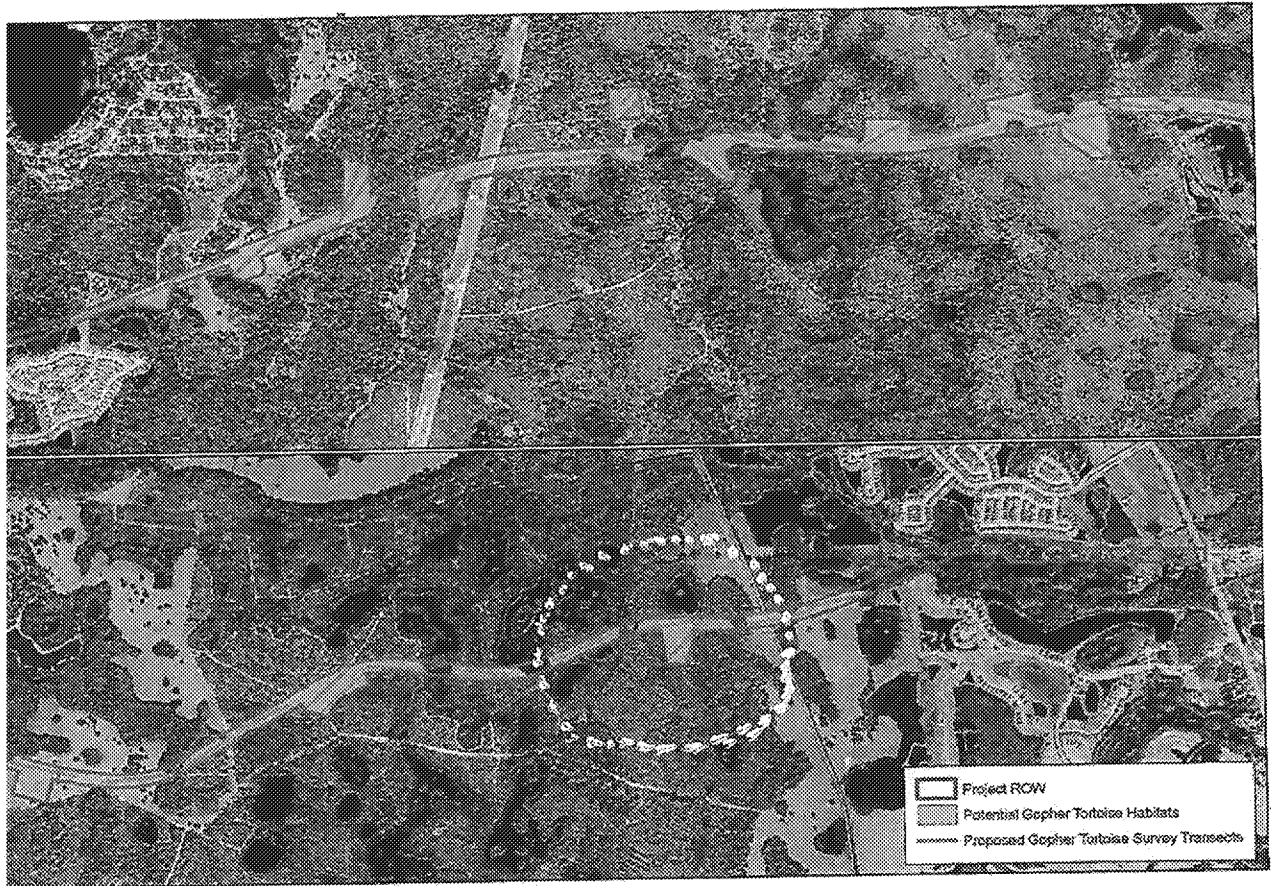
During the surveys detailed above, the biologist team will look for other listed species in order to update the 2005 Wildlife Survey. Any locations where listed species are observed will be recorded using GPS.

In addition, the results of the 2005 Wildlife Survey will be reviewed on the basis of land use changes, land management, and peripheral activities (such as groundwater withdrawals) that could affect continued accuracy of the results. In addition, incidental sightings of species listed by the FFWCC or USFWS will be recorded during the survey work described above, and recent wildlife literature will be reviewed. Florida pine snake, Sherman's fox squirrel, Florida mouse, little blue heron, tri-colored heron, white ibis, southeastern American kestrel, limpkin, Florida sandhill crane, Florida burrowing owl, Florida short-tailed snake, Suwannee cooter, and gopher frog will be specifically targeted, but the review will not be limited to these species. The FNAI, USFWS, and FFWCC will be contacted for updated information on known sightings in the vicinity of the ROW. An assessment will be made in terms of the potential for high, moderate, low, or confirmed occurrence of these species. The assessment will be performed based on the presence of a suitable amount, type, and quality of appropriate habitat types and field observations made during the planned wildlife surveys and other project related work as well as the scientific literature and available resource databases.

"Field observations"

THE 4 MAPS THAT FOLLOW SHOW THE PORTION OF THE OVER 3,600 ACRES OF STILL INACCESSIBLE BEXLEY RANGLANDS WEST OF THE CSX RR TRACKS THAT THE RRE WILL TRAVERSE. THE MAPS ARE FROM THE ABOVE REFERENCED 2012 CARDNO ATTACHMENT "A." THEY INCLUDE POTENTIAL HABITATS FOR THE RED COCKADED WOODPECKER, THE GOPHER TORTOISE (WHOSE BURROWS ARE USED BY E. I. SNAKES), THE E. I. SNAKE AND THE FLORIDA SCRUB JAY.





Attachment D.  
Gopher Tortoise Habitat  
and Transects Map  
Ridge Road  
Pasco County, Florida



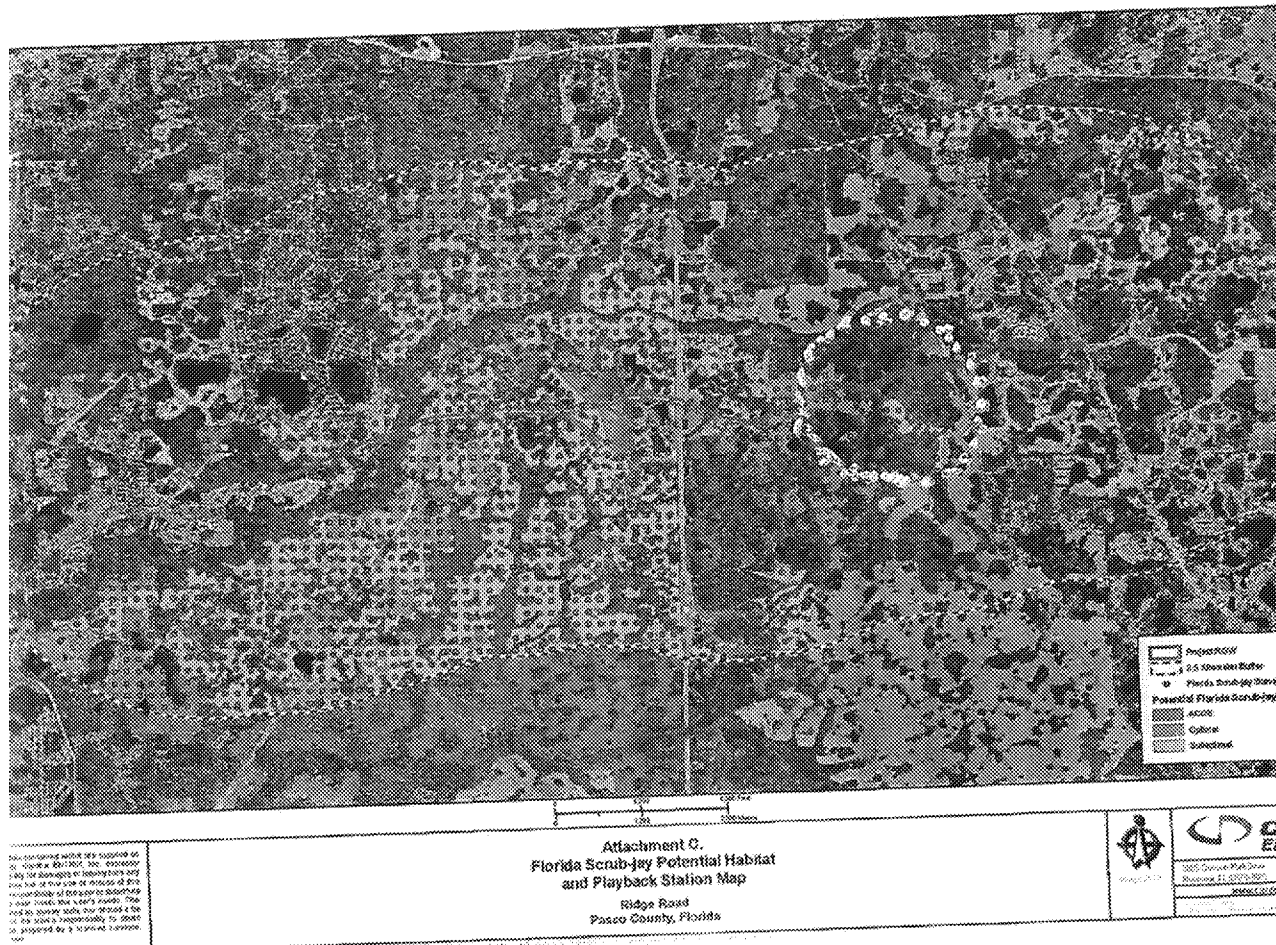
3005 Gandy Blvd. Suite 200  
Tampa, FL 33606-2000  
www.cardnoentrix.com



This map and all data contained within are supplied as is with no warranty. Canterra Systems, Inc. expressly disclaims responsibility for damages or liability from any claims that may arise out of the use or misuse of this map. It is the sole responsibility of the user to determine if the data on this map meets the user's needs. This map was constructed as survey data, not created as a map. It is the user's responsibility to obtain proper survey data, prepared by a licensed surveyor, where required by law.

**Attachment E.**  
**Indigo Snake Potential Habitat Map**  
Ridge Road  
Pasco County, Florida





**COMMENT INSERT---THE IMPORTANCE OF THE FOLLOWING SECTION OF PART 2C BELOW LIES IN THE FACT THAT NO FINAL DETERMINATION OF THE TOTAL AMOUNT OF BOTH DIRECT AND INDIRECT WETLAND IMPACTS USING UMAM CAN BE FINALIZED, IN ORDER TO SUBMIT AN ACCEPTABLE MITIGATION PLAN, UNTIL ALL OF THE SURVEY AND GEOTECHNICAL TASKS HAVE BEEN FINISHED. ONLY THEN WILL THE FINAL ROW REQUIREMENTS, NECESSARY TO DETERMINE ANY AND ALL WETLAND AND UPLAND IMPACTS FOR THE RRE'S ACTUAL ROW ROADWAY AND STORMWATER AND FLOODPLAIN POND LOCATION IMPACTS, BE KNOWN.**

**IT MUST BE REMEMBERED THAT IN 2012 THE JACKSONVILLE USFWS FIELD SUPERVISOR DAVE HANKLA STATED (BELOW) THAT THE USFWS COULD NOT GIVE THEIR APPROVAL THAT THERE WOULD BE 'NO EFFECT' ON THE ENDANGERED WOODSTORK UNTIL AFTER THE SERVICE REVIEWS THE MITIGATION PROPOSAL "...AFTER THE PLAN HAS BEEN DEEMED ACCEPTABLE BY THE CORPS AND THE ENVIRONMENTAL PROTECTION AGENCY..."**

**HOW CAN THAT MITIGATION PLAN EVER RECEIVE ANY FINAL APPROVAL BY THE ACOE AND EPA IF ALL DIRECT AND INDIRECT WETLAND IMPACTS HAVE NOT BEEN PROPERLY ASSESSED BECAUSE NO ON-SITE GROUND TRUTHING IS POSSIBLE DUE TO LACK OF ACCESS?**

**COMMENT INSERT--FOR 11 MONTHS, BEGINNING IN SEPTEMBER 2017 UNTIL JULY 2018, THE APPLICANTS REPEATEDLY STATED THAT THEY WERE "CONSULTING" WITH THE PROPERTY OWNERS EAST OF THE PARKWAY (PHASE 2) TO REACH "AGREEMENTS" THAT WOULD ALLOW THE APPLICANTS TO GAIN ACCESS. THAT ENDEAVOR IS EVIDENCE THAT PASCO COUNTY KNEW FULL WELL THE CRITICAL NEED FOR ACCESS TO PERFORM ON-SITE TASKS. THEIR STATUS REPORTS BELOW ARE INDICATIVE OF THAT FACT.**

**THE CONDENSED STATUS REPORT BELOW FOR SEPTEMBER 2017 STATES THAT:**

**1—PASCO HAS BEGUN THE PROCESS OF 'CONSULTING' WITH PROPERTY OWNERS (BEXLEYS) TO GAIN ACCESS. IT IS NOW NOVEMBER OF 2018, 14 MONTHS LATER. THERE IS STILL NO ACCESS.**

**2—THAT ACCESS IS NECESSARY TO DO FIELD WORK THAT WILL ENABLE THE COMPLETION OF "DETAILED ENVIRONMENTAL STUDIES."**

**3—WITHOUT THOSE STUDIES, NO FINAL MITIGATION PLAN IS POSSIBLE.**

**4—THAT ACCESS IS ALSO NEEDED TO PERFORM DETAILED RRE ROADWAY LINE AND GRADE AND BRIDGE TYPE AND SIZE DESIGN (BTSR) AND WETLANDS FUNCTIONAL ASSESSMENTS.**

**Pasco County/Florida Turnpike Enterprise Ridge Road Extension  
Monthly Status Report**

**September 2017**

**Detailed environmental field work in the Phase I section will commence in late September. The County staff has begun discussions with property owners in the Phase II section of the RRE project. These discussions will focus on Right of Way (ROW) acquisition and access for detailed environmental studies that may be required.**

- **Activity 22, Prepare Preliminary UMAM is underway with access coordination and data collection presently ongoing. Actual field work will commence the week of September 25, 2017 for the Phase I section. Field work on the Phase II section is dependent on received access authority from property owners.**

## **NEXT STEPS**

The County will continue coordination with SWFWMD (Phase I) and property owners (Suncoast interchange and Phase II) to perform field work necessary for detailed environmental studies. These studies are necessary input to the preliminary County and FTE combined compensatory mitigation plan. The co-applicants will continue their detailed work to respond to the USACE May 11, 2017 RAI.

Dwight Beranek, P.E  
Senior Advisor  
Dawson & Associates

## **OCTOBER 2017 STATUS**

**Lack of access to property between the Suncoast and the railroad** continues to prevent completion of field work adjacent to the FTE right-of-way and Phase II areas. **The inability to complete the field work for this critical path activity is causing a day for day delay in the scheduled completion of the project...yet getting access to the properties East of the Suncoast Parkway and completing the preliminary UMAM work there remains a high priority activity.**

**As stated above access to property between the Suncoast and the railroad continues to prevent completion of field work in that area.**

## **November 2017**

The County continues discussions with property owners (principally the Bexley family) at the Suncoast Parkway interchange and Phase II section for access to their properties to complete detailed environmental studies (UMAM) and geotechnical design work. Completion of this task remains unclear resulting in delays in the completion of the UMAM analysis and subsequently to the permitting process.

The County has directed that the UMAM analysis for these sections be completed using data currently available (i.e. **without on-site access**) to submit the completed UMAM analysis to USACE in a timelier manner.

General: The schedule update is based on moving forward with completion of the UMAM for Phase 2 **without access to the Bexley property.**

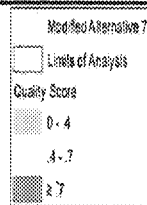
2) Activity 47, Preliminary Geotech for Bridges: All field work for areas west of Suncoast has been completed (borings for 15 of 19 bridges on project are complete). **Field work for the four remaining bridges in Phase 2 of the project is on hold until resolution of access to the Bexley property.**

**COMMENT INSERT—THOSE “REMAINING BRIDGES” ARE COMPOSED OF TWO AT STATION 354 – 355 (THE BEXLEY RANCH ROAD EASEMENT), AND ONLY THE WESTERN ½ OF THE 2 BRIDGES AT THE CSX RR TRACKS WHERE THE BEXLEY PROPERTY LINE IS LOCATED (THE EASTERN HALF IS ON BEXLEY’S PROPERTY). PASCO MAY EVENTUALLY ADMIT THAT THE OVERPASS “BRIDGE” AT STA # 354 – 355 (THE N/S SUNLAKE BOULEVARD LOCATION) WILL NOW BE AN INTERSECTION AND ONE OF THE 7 RECENTLY PROPOSED. BUT THEY HAVE SAID IN THE LATEST PN THAT THE LOCATIONS OF THOSE 7 NEW INTERSECTIONS IS CURRENTLY UNKNOWN. BUT THAT OVERPASS BRIDGE MUST BE AN INTERSECTION, BY LEGAL CONTRACT WITH THE BEXLEYS AS CONDITION # 14 OF THE 2013 ROE. AS SUCH, THERE WILL NOT ONLY BE INDIRECT (SEC. & CUM.) IMPACTS FOR THAT INTERSECTION, BUT DIRECT IMPACTS AS WELL, AS THE MAP BELOW INDICATES. AND THE WETLAND TO THE NORTHEAST OF THAT INTERSECTION HAS ONE OF THE HIGHEST QUALITY SCORES.**



Modified Alternative 7. Wetland Quality Score

Now new Sunlake Blvd  
 intersection with Wetland To The East  
 Having the highest Quality Score  
 of  $\geq 7$ .



Pasco County Florida



Ridge Road Extension  
 Alternatives Analysis

Drawn March, 2015

\\s010001\proj\00000643\00081\Drawn March 2015.dwg

**COMMENT INSERT—BELOW BOTH THE MARCH AND APRIL 2018 DAWSON & ASSOCIATES STATUS REPORTS TO THE ACOE ARE EXAMPLES OF ONES THAT EACH MONTH INCLUDE THE USUAL REFERENCES TO SUPPOSEDLY ONGOING “CONSULTATIONS” AND “DISCUSSIONS” WITH THE LANDOWNERS “...to resolve questions related to the ROW east of the Suncoast Parkway.” THOSE REFERENCES CONTINUED FOR 11 MONTHS UP TO THE AUGUST 2018 REPORT.**

**HOWEVER, THE AUGUST AND SEPTEMBER 2018 DAWSON STATUS REPORTS OMITTED ANY OF THE USUAL REFERENCES TO THAT “COORDINATION,” WHICH WAS SUPPOSED TO LEAD TO “AGREEMENTS” THAT WOULD ALLOW THE ACCESS TO PHASE 2 REQUIRED TO ACHIEVE ACCEPTABLE RESPONSES TO THE ACOE’S MAY 11, 2017 RAI.**

**IT APPEARS THAT EVEN DAWSON HAS GIVEN UP ON THE REFERENCES TO ACCESS ON PHASE 2. IT MAY HAVE BECOME AN EMBARRASSMENT TO THEM, AND A POTENTIAL TEST OF THEIR CREDIBILITY WITH THE ACOE, AS THEY CONTINUE TO PLAY A PART IN THIS RRE MOD 7 “DOUBLY MODIFIED” APPLICATION.**

#### **March 2018**

##### **PURPOSE**

Provide a report on the status of the Ridge Road Extension (RRE) permit application.

The County continues to consult with property owners on lands east of the Suncoast Parkway. The results of these discussions will be formulated into the response to the relevant sections of the May 11, 2017 USACE RAI.

#### **APRIL 2018 STATUS**

The current anticipated date for a USACE permit decision has moved to February 26, 2019.

The County continues to consult with property owners on lands east of the Suncoast Parkway. The results of these discussions will be formulated into the response to the relevant sections of the May 11, 2017 USACE RAI.

##### **NEXT STEPS**

The County will attempt to resolve questions related to the ROW east of the Suncoast Parkway in the near future.

**NOW (BELOW) IN AUGUST 2018 BEGINS THE OMISSION OF ANY REFERENCES TO  
“CONSULTATIONS” WITH THE BEXLEYS.**

**August 2018**

The changes prompted by the modified design intent for Phase II has impacted the overall schedule. The co-applicants intend to mitigate some of the schedule impacts by performing some tasks in parallel. Based upon all the current and anticipated activities in the schedule the projected date for a USACE permit decision has been changed to September 20, 2019.

**NEXT STEPS**

USACE expects to publish the new Public Notice in the first half of September. USACE comments from the UMAM review is expected during September. The Mitigation Plan review comments are expected to follow. The co-applicants will continue work on current tasks and plan for those expected from the modified design intent for Phase II and will continue their detailed work to respond to the USACE May 11, 2017 RAI. The co-applicants will forward a letter to USACE providing the status of their activities. Weekly conference calls with USACE will continue.

**SEPTEMBER 2018 STATUS**

USACE issued a new Public Notice on September 25, 2018 which included the modified design intent. USACE may request the co-applicants update some data from the April 2015 alternatives analysis (and review the preliminary LEDPA determination, as needed).

**NEXT STEPS**

USACE will collect and evaluate comments received during the 30-day Public Notice comment period. USACE may request further analysis and data from the co-applicants based upon the public and agency comments and other information that may be needed to make a final permit decision. USACE will complete its review of the UMAM data provided by the co-applicants. In addition, USACE will review the County and FTE Mitigation Plans. Review comments are expected to follow. The co-applicants will continue work on current tasks and plan for those expected from the modified design intent for Phase II and will continue their detailed work to respond to the USACE May 11, 2017 RAI.

Submitted by: Dwight Beranek, P.E Senior Advisor Dawson & Associates Attachments: - USACE Flow Chart dated September 5, 2018 - Project CPM dated September 11, 2018 CF: Margaret Smith Sam Beneck Martin Horwitz Dave Barrows Rick Capka Tom Montgomery Steve Lewis Colleen Kruk

**COMMENT INSERT—THE ABOVE NOVEMBER 2017 STATUS REPORT WAS SUBMITTED TO THE RRE “TEAM” AS A DRAFT, TO BE APPROVED. THE FIRST ATTACHMENT IN THE EMAIL BELOW FROM DWIGHT BERANEK TO THAT “TEAM” STATED THAT, SINCE IN 11/2017 THERE WAS NO ACCESS TO THE BEXLEY PROPERTY, PASCO WOULD BEGIN AN UMAM ANALYSIS FOR THE EASTERN SIDE OF THE PARKWAY INTERCHANGE AND PHASE 2 “...using best available data.” THAT IS BASICALLY ‘EXTRAPOLATION,’ GUESSWORK AND TOTALLY UNACCEPTABLE. WETLANDS ARE IN A CONSTANT STATE OF FLUX. WETLAND FUNCTIONS AND VALUES CHANGE WITH TIME, REQUIRING THAT AN ASSESSMENT OF THEIR UMUM DESIGNATIONS BE BASED ON PRESENT DAY CONDITIONS AND NOT ON SOME PAST CONDITION WHICH MAY, OR MAY NOW, CURRENTLY EXIST.**

**From:** Dwight Beranek <dwright.beranek@gmail.com>

**Sent:** Monday, November 27, 2017 9:04 AM

**To:** Thomas Montgomery <Thomas.Montgomery@nv5.com>; Dave Barrows <barrows@teleport.com>; Sam Beneck <sbeneck@pascocountyfl.net>; Margaret W. Smith <mwsmith@pascocountyfl.net>; Richard Capka <jrcapka@dawsonassociates.com>; Horwitz, Martin <martin.horwitz@dot.state.fl.us>

**Subject:** Pasco County/FTE RRE November Monthly Report

**Importance:** High

Team: Please review and comment on the attached November 2017 Monthly Report for the RRE project. Once I have your comments I'll complete the report and forward it to you for your use.

Sam and Margaret: Please give me the name and email for the SWFWMD POC so I can send them a copy of the report as we discussed in the meeting with them.

Vr, Dwight

Dwight Beranek, P.E.

Senior Advisor

Dawson and Associates

Cell: (941)757-9609

**Pasco County/Florida's Turnpike Enterprise Ridge Road Extension**

**Monthly Status Report**

**November 2017 (DRAFT)**



## NOVEMBER 2017 STATUS

### NEXT STEPS

Detailed Roadway, Landscape and Bridge plans will continue as scheduled. UMAM submittal to USACE for Phase I section is scheduled for December 2017. **Suncoast Interchange and Phase II UMAM analysis will begin using best available data.** The County will continue coordination with property owners East of the Suncoast Parkway to achieve agreements required to advance permit activities in these sections.

Submitted by:

Dwight Beranek, P.E

Senior Advisor

Dawson & Associates

Attachments:

1. USACE Flow Chart, August 16, 2017
2. RRE Design and Permitting Schedule, November 22, 2017

CF:

Margaret Smith  
Sam Benet  
Martin Horwitz  
Dave Barrows  
Rick Capka  
Tom Montgomery  
Steve Lewis  
SWFWMD

**COMMENT INSERT--IN 2008 THE THEN ACOE PROJECT MANAGER FOR THE RRE, MIKE NOWICKI REMARKED HOW THE LACK OF ACCESS TO PERFORM THE REQUIRED ENVIRONMENTAL ASSESSMENTS WAS GOING TO POSE A PROBLEM. HE STATED THAT IN ORDER TO COMPLETE THOSE ASSESSMENTS "...Mr. Bexley would have to give them access..." AND "If we all miraculously reach some sort of agreement on the level of data needed and if that is provided to everyone's satisfaction, a COE permit would be issued." BUT HE CONTINUED SAYING THAT DATA WOULD HAVE TO BE**

SUFFICIENT SUCH THAT IT WOULD SERVE TO "... defend the COE decision in court.  
I just don't see that happening."

COMMENT INSERT--NOTHING SEEMS TO HAVE CHANGED IN THE ENSUING 10 1/2 YEARS.

Subject: RE: (UNCLASSIFIED)

> Date: Fri, **4 Apr 2008** 09:16:34 -0400  
> From: Michael.F.Nowicki@usace.army.mil  
> To: ramettadan@hotmail.com  
>  
> Classification: UNCLASSIFIED  
> Caveats: NONE

> We, EPA/FWS/and I, will all be in one room with Pasco County for our meeting  
> and I am sure that Pasco will get a clear message concerning the probability  
> that RRE will get a COE permit. Of course, it's still a dot the I's and  
> cross the T's issue but **I don't see how they can overcome the wetland**  
**> assessments on Phase II** and the lack of ROW for the eastern part of >the FDOT  
promised interchange **since Mr. Bexley would have to give them access** and  
the ROW. **Add to that the scrub jay survey, the alternatives analysis,**  
**the minimization, the clarification of the access off the interchange**  
**to the mulit-use area, and the wildlife crossings and they have a lot**  
**of work to do.** If we all miraculously reach >some sort of agreement on the level  
of data needed and if that is provided to >everyone's satisfaction, a COE permit  
would be issued.

**>That means they would give me enough data to overcome**  
**the ARNI >and defend the COE decision in court. I just**  
**don't see that happening.**

> Mike  
>  
> Classification: UNCLASSIFIED  
> Caveats: NONE

THE 4 EXAMPLES BELOW ARE EVIDENCE FROM 3 EMAILS AND A PASCO BOCC MEETING CONCERNING THE RRE NO ACCESS ISSUE. THEY ARE IN DATE ORDER. THEY ARE PRECEDED BY SHORT EXCERPTS IDENTIFYING THE ISSUES.

IN 2012 SHIRLEY DENTON, CARDNO'S ENIOR PROJECT SCIENTIST SAID THAT: It's important to try to get access to Bexley land – there won't be a free pass for this **AND** I should include the indigo snake survey methodology... Based on the past gopher tortoise surveys, the habitat, and the fact that an indigo has been seen on Starkey, we're going to wind up doing them. **AND** (one of the plant species is only visible in March-early April).

**AND**

CARDNO'S JOHN BAILEY IN 10/2017 TOLD ACOE'S PROJECT MANAGER SHAYNE HAYES THAT we cannot finish the UMAM for Bexley "...without additional field work."

**AND**

IN 2006 MIKE NOWICKI STATED THAT IT HAD BEEN FOUR YEARS AND THE LAST WRAP SCORES WERE NOW OUTDATED AND REQUIRED ANOTHER "FIELD VISIT." HE EVEN SAID THAT

"...wetland descriptions even one year old may be too old."

**AND**

SAM BENECK SAYS THAT PASCO COULD NOT COLLECT ENVIRONMENTAL DATA DUE TO NOT HAVING ACCESS TO THE BEXLEY PROPERTY.

**COMMENT INSERT—NOW FOR THE 5 EMAILS.**

**#1.**

**From:** Shirley R. Denton  
**To:** Michele Baker; Hurst, Tracy E SAJ  
**Cc:** Keith L. Wiley; John Chiarelli; Andy Alipour; Bipin Parikh; Montgomery Tom (tmontgomery@phaengineers.com);  
Post, John M.

**Subject:** RE: RRE - call from Shirley re wildlife surveys (UNCLASSIFIED)

**Date:** Friday, March 23, 2012 8:47:19 AM

To summarize what I understand from today's call –

**1. It's important to try to get access to Bexley land – there won't be a free pass for this**

2. The plan should include scrub-jays within ½ mile of the alignment – the COE insisted on that twice previously, and I doubt a more lax survey will be accepted now

**3. I should include the indigo snake survey methodology along with a caveat that we're not agreeing to do it. Based on the past gopher tortoise surveys, the habitat, and the fact that an indigo has been seen on Starkey, we're going to wind up doing them.**

4. It does not need to be in the plan, but Pasco should strategize timing before the approved plan gets implemented.

5. Based on anticipated timing for plan approval, you will have one survey that will have to be done next March **(one of the plant species is only visible in March-early April).**

Shirley R Denton, Ph.D.

Senior Project Scientist

Cardno ENTRIX

3905 Crescent Park Drive, Riverview, FL 33578

Phone: 813 664 4500 Direct: 813 257 0023 Mobile: 813 625 5031 Fax: 813 664 0440

**COMMENT INSERT—NOW IN 2018 NOTHING HAS CHANGED. THE LAST FIELD VISIT TO CONDUCT AN UMAM ASSESSMENT WAS IN 2013, 5 YEARS AGO. WE HAVE HAD SEVERAL HURRICANES IN THAT INTERIM AND THE GROUND WATER AND STREAM AND RIVER LEVELS HAVE CHANGED. THE DEGREE OF THAT CHANGE HAS TO BE ASSESSED ON-SITE IN THE COMPANY OF A WETLAND BIOLOGIST AND LAND SURVEYOR AT A MINIMUM.**

#2---

Michele L Baker  
Program Administrator  
for Engineering Services  
O 727-847-8140 ext. 8756  
F. 727-847-8084  
mbaker@pascocountyfl.net <mailto:mbaker@pascocountyfl.net>  
Sent: Wednesday, August 23, 2006 11:45 AM

To: Barbara Wilhite; Bipin Parikh, Jake Varn {jvarn@fow;erwhie.com} Jamss Widman; John J. Gallagher, Michele Baker; Montgomery Tom (tmomgomery.gphsenytnet.com); Robert Wietz. Shirley Denton {sdenton@biologicairesearch.com}; 'Steve Godiey' (sg5diey@Dbogicaire3earch.com Subject: FW: DA Permit Application SAI-1998-2682(IP-MN). Pasco County."~Ridge Road Extension

Importance: High

Hello All. – Please review the attached from Mike Nowicki. At COE. Please prepare responses to his comments and return to me by next Wednesday, 8:30.

Tom. PH&A — questions 2, 3, and 4  
Barbara. CAC - You and Fred need to work on 5  
Steve. BRA - questions 6, 8, 9  
MPO.-MLR - question 11

John-Bipin - As you can see from Mike's summary after question 11, **wetland descriptions even one year old may be too old for inclusion because of changes to the wetlands**, because the extraction of potable water from the Pasco wellfields has been drastically reduced. He has concerns that our impacts are not accurate and therefore the WRAP analysis is not accurate (question 6). I spoke with Godtey regarding this issue today. **He says the last field visit was probably four years ago. In order to update the impacts another field visit is required.** He strongly recommends that we do this ASAP before we have any tropical system rainfall. He is working up a cost and time estimate which I will bring to you. I think we need to get his people in the field before the next 8CC meeting on 9/11 (frankly before Labor Day weekend if possible,) I will bring his estimate to you as soon as I receive it. Michele

Michele L Baker  
Program Administrator  
for Engineering Services  
O: 727-847-6140 ext. 8756  
F: 727-847-8084  
mbaRef@pascocountyfl.net <mailto:mbaker@pascocountyfl.net>

**#3--BELOW JOHN BAILEY, A PROJECT SCIENTIST/ENGINEER WITH PASCO'S SUBCONSULTANT CARDNO, IN A 10/2017 EMAIL TO ACOE'S RRE PROJECT REVIEWER SHAYNE HAYES, ADMITS THAT PASCO CANNOT "...finish the UMAM for Bexley without additional field work."**

**THAT WAS BEFORE THE BEXLEY FAMILY SOLD THE OVER 2,900 ACRE LEN-ANGELINE PARCEL ADJACENT TO THE PARKWAY. JOHN WAS REFERRING TO THAT PARCEL WHICH IS NOW OWNED (SINCE 01/2018) BY LEN-ANGELINE. IT WAS IN REFERENCE TO PASCO'S ATTEMPT TO CONDUCT A UMAM WETLAND EVALUATION FOR THE ½ MILE INTERCHANGE PROPERTY EAST OF THE PARKWAY AS PART OF THE THEN PHASE 1/INTERCHANGE ANALYSIS. BUT, IF ACCESS WAS THEN REQUIRED FOR THAT UMAM ASSESSMENT, THEN IT STANDS TO REASON THAT SAME ACCESS WILL ALSO BE REQUIRED FOR THE REMAINDER OF THE 3,600 ACRES OF THE BEXLEY RANCHLAND EAST OF THAT LEN-ANGELINE PARCEL FOR AN UMAM ASSESSMENT.**

**HOWEVER, NO ACCESS IS NOW EVER POSSIBLE (AS LONG AS THE BEXLEYS RETAIN OWNERSHIP) NO MATTER HOW MANY "CONSULTATIONS" AND "ATTEMPTS AT OBTAINING AGREEMENTS" DAWSON SAYS IN THEIR MONTHLY STATUS REPORTS HAVE BEEN OCCURRING IN THE PAST 12 - 16 MONTHS.**

Thanks Shane. I was out all last week. I am in the process of finishing up the UMAM Part I and II forms for everything west of the Suncoast. Anything you have would help, but **it sounds like we cannot finish the UMAM for Bexley without additional field work.**

John Bailey, PWS  
PROJECT SCIENTIST

NATURAL RESOURCES & HEALTH SCIENCES DIVISION CARDNO Direct +1 813 257 0008 Mobile +1 813 625 5040 Address 3905 Crescent Park Drive, Riverview, FL 33578 Email [john.bailey@cardno.com](mailto:john.bailey@cardno.com) Web [www.cardno.com](http://www.cardno.com)

-----Original Message-----

From: Hayes, Terry S (Shayne) CIV USARMY CESAJ (US) [<mailto:Terry.S.Hayes@usace.army.mil>]  
Sent: Thursday, October 26, 2017 9:55 AM  
To: John Bailey <[John.Bailey@cardno.com](mailto:John.Bailey@cardno.com)>  
Cc: Dwight Beranek ([dwight.beranek@gmail.com](mailto:dwight.beranek@gmail.com)) <[dwight.beranek@gmail.com](mailto:dwight.beranek@gmail.com)>; Dave Barrows ([barrows@teleport.com](mailto:barrows@teleport.com)) <[barrows@teleport.com](mailto:barrows@teleport.com)>; Shirley Denton <[Shirley.Denton@cardno.com](mailto:Shirley.Denton@cardno.com)>; Thomas Montgomery <[Thomas.Montgomery@nv5.com](mailto:Thomas.Montgomery@nv5.com)>; Sam Beneck <[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)>  
Subject: RE: SAJ-2011-00551 Pasco County / Ridge Road Extension - Bexley Wetlands (UNCLASSIFIED)  
CLASSIFICATION: UNCLASSIFIED

John,

I've been meaning to respond to this request. Honestly, I don't think I have very much on UMAM. I did discuss UMAM with Shirley at a couple of locations, but I did not take extensive notes at every location. I will try to locate my notes today and let you know what I find.

V/r,  
Shayne

-----Original Message-----

From: John Bailey [<mailto:John.Bailey@cardno.com>]

Sent: Wednesday, September 20, 2017 9:35 AM

To: Hayes, Terry S (Shayne) CIV USARMY CESAJ (US) <[Terry.S.Hayes@usace.army.mil](mailto:Terry.S.Hayes@usace.army.mil)>

Cc: Dwight Beranek ([dwight.beranek@gmail.com](mailto:dwight.beranek@gmail.com)) <[dwight.beranek@gmail.com](mailto:dwight.beranek@gmail.com)>; Dave Barrows ([barrows@teleport.com](mailto:barrows@teleport.com)) <[barrows@teleport.com](mailto:barrows@teleport.com)>; Shirley Denton <[Shirley.Denton@cardno.com](mailto:Shirley.Denton@cardno.com)>;

Thomas Montgomery <[Thomas.Montgomery@nv5.com](mailto:Thomas.Montgomery@nv5.com)>; Sam Beneck <[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)>

Subject: [EXTERNAL] RE: SAJ-2011-00551 Pasco County / Ridge Road Extension - Bexley Wetlands

Good Morning Shayne,

We are preparing the Ridge Road UMAM analysis. **We do not have access to the Bexley portion of the project at this time, and it looks like it may be awhile before we do. We have previous scoring for the Bexley wetlands, but we do not have the full blow Part 1 and Part 2 forms.** Would you be willing to provide us with any notes for these areas that you may have from our November 2016 field review? Anything you have would help. Thanks.

**John Bailey, PWS  
PROJECT SCIENTIST**

**#4—THE EMAIL BELOW OCCURRED WHEN THE BEXLEY FAMILY STILL OWNED THE LANDS ADJACENT TO THE PARKWAY. NOW LEN-ANGELINE (LENNAR HOMES) OWNS OVER 2,900 ACRES OF IT. SO HOW IS THIS ANY DIFFERENT FROM THE REST OF PHASE 2 THAT THE BEXLEYS' STILL OWN TO THE EAST ON THE RRE ROW? THE CURRENT RRE PROJECT MANAGER SAM BENECK STATES THAT HAVING NO ACCESS MEANS THAT "...we couldn't collect current environmental data" AND "The access has still not been resolved but we are moving forward with **historical** data and current **aerial images** and hope that the USACE will be satisfied with that information."**

**BUT THE PREVIOUS EMAILS VERIFY THAT THE USE OF "HISTORICAL" AND "AERIAL" DATA ARE SIMPLY NOT ACCURATE ENOUGH TO CORRECTLY ASSESS WETLAND IMPACTS FOR AN UMAM DETERMINATION AND MITIGATION PURPOSES AS WELL AS VERIFYING THE PRESENCE OF, AND IMPACTS TO, LISTED SPECIES AND THEIR HABITATS.**

**THE ACOE MUST ERR ON THE SIDE OF CAUTION AND DEMAND ACCURATE DATA. IF THE LACK OF ACCESS TO PRIVATE PROPERTY PREVENTS THAT THEN, AS THE GUIDELINES CLEARLY STATE, THAT LACK OF INFORMATION PREVENTS ANY CWA 404 PERMIT FROM BEING GRANTED.**

**From:** Sam Beneck <[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)>  
**Sent:** Thursday, December 7, 2017 12:12 PM  
**To:** Porebski, Peter <[Peter.Porebski@duke-energy.com](mailto:Peter.Porebski@duke-energy.com)>  
**Subject:** RE: 20171130 Ridge Road Status Report

Good morning Sir,

**We were not able to secure a right of entry from one of the private land owners and as a result we couldn't collect current environmental data.** The access has still not been resolved but we are moving forward with **historical data** and current aerial images and **hope that the USACE will be satisfied with that information.**

I do not believe that you sent me the petition but if you could that would be great. I heard that there is actually a protest planned for Saturday at the site.



**Sam Beneck**  
Project Manager

Pasco County Project Management

P (727) 834-3604 x1614

C (727) 753-8194

5418 Sunset Rd, New Port Richey, FL 34652

[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)

**COMMENT INSERT—THE EVIDENCE PRESENTED ABOVE, FROM THEIR OWN STATUS REPORTS, INDICATE THAT THE APPLICANTS KNEW OF THE CRITICAL NEED FOR ACCESS. IT IS SUPPLEMENTED BELOW BY FURTHER EVIDENCE FROM THEIR OWN BUDGETARY APPROPRIATIONS. THAT CRITICAL NEED HAD TO HAVE BEEN FULLY REALIZED BY THEM WHEN THEY APPROVED THE FUNDING FOR ALL OF THE DESIGN AND GEO-TECHNICAL TASKS LISTED BELOW THAT WERE REQUIRED TO MAKE THE ASSESSMENTS NEEDED BY THE FEDERAL AGENCIES BEFORE ANY PERMIT COULD BE GRANTED.**

**THAT IS YET ANOTHER LEVEL OF EVIDENCE POINTING TO THE FACT THAT THE APPLICANTS MUST KNOW THAT THEIR CHANCES OF OBTAINING A PERMIT, ABSENT THAT ACCESS, ARE NIL.**



**LIST OF THE ACTUAL TASKS PASCO FUNDED NV5 AND CARDNO TO ACCOMPLISH WHICH REQUIRE ON-SITE ACCESS.**

**BELOW THERE ARE (ABRIDGED) OVER 60 REQUIRED TASKS, THAT PASCO COUNTY FUNDED \$4.6 MILLION TO ACCOMPLISH. ALL REQUIRE ON-SITE GROUND TRUTHING.**

**NO ACCESS MEANS THOSE TASKS CAN NEVER BE DONE. ALL ARE NEEDED, ACCORDING TO PASCO, TO GET AN ACOE CWA 404 PERMIT. PASCO'S DESIRE TO EXTRAPOLATE IS NOT ACCEPTABLE SINCE IT IS NOT THE 'BEST AVAILABLE SCIENTIFIC INFORMATION.'**

**ALL TASKS THAT REQUIRE AN ONSITE PRESENCE ARE HIGHLIGHTED IN RED.**

## **Pasco County Commission Agenda**

**July 11, 2017  
10:00 AM, Dade City**

ITEM R8

R8	<u>Change Order No. 17 to General Professional Services Agreement - NV5, Inc. - Ridge Road Extension Design and Permitting - \$4,697,499.00</u>
<b>Memorandum</b>	PMA17-148
<b>Comm. Dist.</b>	2,4
<b>Recommendation:</b>	Approve

### **ATTACHMENT 4—SCOPE OF SERVICES**

#### **EXHIBIT A**

Change Order No. 17  
RIDGE ROAD EXTENSION Phases 1 & 2  
PROJECT NO.: C-6686.20  
PASCO COUNTY  
Scope of Services for Final Design and Construction Documents

This Exhibit forms an integral part of the agreement Pasco County (hereinafter referred to as the COUNTY) and NV5, Inc. (hereinafter referred to as the CONSULTANT) relative to the transportation facility described as follows:

County Project No.: *C6686.20*

Description: *Ridge Road Extension Phases 1 & 2, Pasco County*

#### **2.21 COUNTY will provide the following:**

Provide for CONSULTANT access to privately owned lands as needed. CONSULTANT shall provide written request to COUNTY to access privately owned lands.

#### **6a.1 Drainage Map Hydrology**

Accurately delineate drainage basin boundaries to be used in defining the system hydrology. Basin delineation shall incorporate existing survey and/or LiDAR and shall be supplemented, as necessary, with other appropriate data sources (such as permitted site plans) and field observations. Basin delineations shall also include any existing collection systems in a logical manner to aid in the development of the hydraulic model. Prepare the Drainage Maps in accordance with the FDOT Plans Preparation Manual.

#### **6a.2 Base Clearance Report**

Analyze, determine, and document high water elevations per basin which will be used to set roadway profile grade and roadway materials. Determine surface water elevations at cross drains, floodplains, outfalls and adjacent stormwater ponds. Determine groundwater elevations at intervals between the above-mentioned surface waters. Document findings in an updated Base Clearance Report as appropriate.

#### **6a.3 Pond Siting Analysis and Report**

Existing pond site locations shall be used to the maximum extent feasible. Should additional sites be required, evaluate pond sites using a preliminary hydrologic analysis. Document the results and coordination for any new pond locations in a Pond Siting Report.

### **8 PERMITS, COMPLIANCE AND CLEARANCES**

#### **8.10 Mitigation Design 6/29/17**

The COUNTY has determined that compensatory mitigation for unavoidable wetland impacts shall be provided through the purchase of credits from a mitigation bank. CONSULTANT shall assist the COUNTY with coordination with the Mitigation Bank to facilitate the reservation and purchase of credits.

CONSULTANT shall analyze the wetland impacts and determine the number of compensatory mitigation credits required based on the Unified Mitigation Assessment Method (UMAM). The UMAM analyses shall be completed separately for both the SWFWMD Environmental Resource Permit modification application and the USACE Section 404 permit application processing.

#### **8.14 Preparation of Environmental Clearances and Reevaluations**

The CONSULTANT shall prepare reports and clearances for all the changes to the project that occurred after the USACE acceptance of Mod 7 as the apparent Least Environmentally Damaging Practicable Alternative (LEDPA) based on the Alternatives Analysis. These changes could include but are not limited to pond and/or flood compensation sites identified, land use or environmental changes, and significant design changes.

**8.14.1 NEPA Reevaluation:** During the development of the final design plans, the CONSULTANT shall be responsible for coordinating with USACE to provide necessary engineering information required to document changes between Mod 7 as proposed in the Alternatives Analysis and the final design.

**8.14.3 Wetland Impact Analysis:** The CONSULTANT shall complete Unified Mitigation Assessment Method (UMAM) analyze for the impacts to wetlands and other surface waters as need for both USACE and SWFWMD permitting activities to quantify the functional loss that will result from the wetland impacts.

**8.14.5 Wildlife and Habitat Impact Analysis:** The CONSULTANT shall coordinate with SWFWMD as needed for consultation with FWC to facilitate issuance of the ERP modification.

**8.14.6 Section 7 or Section 10 Consultation:** The CONSULTANT shall coordinate with USFWS and USACE and provide necessary technical information to facilitate acceptance of the Biological Assessment updated under CO 16 for the completion of the Section 7 Consultation.

### **9 STRUCTURES - SUMMARY AND MISCELLANEOUS TASKS AND DRAWINGS**

The CONSULTANT shall analyze, design, and develop contract documents for all structures in accordance with applicable provisions as defined in Section 2.19, Provisions for Work. Individual tasks identified in Sections 9 through 18 are defined in the FDOT Staff Hour Estimation Handbook. Contract documents shall display economical solutions for the given conditions.

The CONSULTANT shall provide Design Documentation to the COUNTY with each submittal consisting of structural design calculations and other supporting documentation developed during the development of the plans. The design calculations submitted shall adequately address the complete design of all structural elements. These calculations shall be neatly and logically presented including a cover sheet indexing the contents of the calculations and all sheets shall be numbered. All computer programs and parameters used in the design calculations shall include sufficient backup information to facilitate the review task. The final complete Design Documentation package shall be delivered as a pdf file signed and sealed by a Florida registered Professional Engineer.

### **COMMENT NOTE—CANNOT BE DONE WITHOUT BORINGS**

**9.15 Coordination** – includes coordination with FDOT to obtain bridge numbers. Includes structural coordination with CSX railroad to support obtaining approval for the grade separated crossing.

**COMMENT NOTE—THE ABOVE CANNOT BE DONE FOR THE WESTERN SIDE OF THE CSX BRIDGING OR FOR THE BEXLEY RANCH ROAD BRIDGES ON BEXLEY PROPERTY.**

**27 SURVEY**

The CONSULTANT shall utilize to the greatest extent feasible previously obtained survey data. Additional survey shall be as needed to support the design effort including utility locates, geotechnical support and topographic updates as described herein. Services shall be completed in accordance with all applicable statutes, manuals, guidelines, standards, handbooks, procedures, and current design memoranda.

The CONSULTANT shall submit all survey notes and computations to document the surveys. All field survey work shall be recorded in approved media and submitted to the COUNTY. Field books submitted to the COUNTY must be of an approved type. The field books shall be certified by the surveyor in responsible charge of work being performed before the final product is submitted.

The survey notes shall include documentation of decisions reached from meetings, telephone conversations or **site visits**. All like work (such as bench lines, reference points, etc.) shall be recorded contiguously. The COUNTY may not accept field survey radial locations of section corners, platted subdivision lot and block corners, alignment control points, alignment control reference points and certified section corner references. **The COUNTY may instead require that these points be surveyed by true line, traverse or parallel offset.**

**27.2 Vertical Project Control (VPC)**

Recover VPC, for the purpose of establishing vertical control on datum originally used for the project. Includes **analysis and processing of all field collected data, and preparation of forms.**

**27.3 Alignment and/or Existing Right of Way (R/W) Lines**

Recover or re-establish project alignment. **Also includes analysis and processing of all field collected data,** existing maps, and/or reports for identifying mainline, ramp, offset, or secondary alignments. Depict alignment and/or existing R/W lines (in required format) per COUNTY R/W Maps, platted or dedicated rights of way.

**27.6 Topography/Digital Terrain Model (DTM) (3D)**

Update survey at the eastern side of the DeCubellis/Moon Lake intersection and on the western side of the Ridge Road Extension at US 41 intersection.

**Locate all above ground features and improvements for the limits of the project by collecting the required data for the purpose of creating a DTM with sufficient density. Shoot all break lines, high and low points. Effort includes field edits, analysis and processing of all field collected data, existing maps, and/or reports. Merge data into existing DTM**

**27.10 Underground Utilities**

Designation includes 2-dimensional collection of existing utilities and selected 3-dimensional verification as needed for designation. **Location includes non-destructive excavation to determine size, type and location of existing utility, as necessary for final 3-dimensional verification. Survey includes collection of data on points as needed for designates and locates. Includes analysis and processing of all field collected data, and delivery of all appropriate electronic files.**

**27.18 Geotechnical Support**

Perform 3-dimensional (X,Y,Z) field location, or stakeout, of boring sites established by geotechnical engineer. Includes field edits, analysis and processing of all field collected data and/or reports.

#### **27.24 Right of Way Staking, Parcel / Right of Way Line**

Perform field staking and calculations of existing/proposed R/W lines for on-site review purposes. 6/29/17

#### **27.25 Right of Way Monumentation**

Set R/W monumentation as depicted on final R/W maps for corridor and stormwater management areas.

#### **27.26 Line Cutting**

Perform all efforts required to clear vegetation from the line of sight.

#### **27.27 Work Zone Safety**

Provide work zone as required by COUNTY standards.

#### **27.29 Supplemental Surveys**

Supplemental survey days and hours are to be approved in advance by the County Engineer or representative. Refer to tasks of this document, as applicable, to perform surveys not described herein.

#### **27.31 Field Review**

Perform verification of the field conditions as related to the collected survey data.

### **35 GEOTECHNICAL**

The CONSULTANT shall be responsible for additional geotechnical investigation as needed to supplement information previously obtained and in the possession of the CONSULTANT. All work performed by the CONSULTANT shall be in accordance with COUNTY standards, or as otherwise directed by the COUNTY Engineer or representative.

Before beginning each phase of investigation and after the Notice to Proceed is given, the CONSULTANT shall submit an investigation plan for approval and meet with the COUNTY Engineer or representative to review the project scope and COUNTY requirements. The investigation plan shall include, but not be limited to, the proposed boring locations and depths, and all existing geotechnical information from available sources to generally describe the surface and subsurface conditions of the project site. Additional meetings may be required to plan any additional field efforts, review plans, resolve plans/report comments, resolve responses to comments, and/or any other meetings necessary to facilitate the project.

#### **35.1 Document Collection and Review**

##### **Roadway**

The CONSULTANT shall be responsible for coordination of any additional geotechnical related field work activities needed to supplement the existing geotechnical information. It is anticipated that previously performed roadway geotechnical will be adequate for the plans update.

If required, additional roadway exploration shall be performed before the 30% plans submittal. The preliminary roadway exploration will be performed and results provided to the Engineer of Record to assist in setting roadway grades and locating potential problem areas.

CONSULTANT shall perform specialized field-testing as required by project needs and as directed in writing by the COUNTY Engineer or representative.

### 35.2 Develop Detailed Boring Location Plan

Develop a detailed boring location plan. Meet with COUNTY Engineer or representative for boring plan approval. **If the drilling program expects to encounter artesian conditions, the CONSULTANT shall submit a methodology(s) for plugging the borehole to the COUNTY for approval prior to commencing with the boring program.**

### 35.3 Stake Borings/Utility Clearance

Stake borings and obtain utility clearance.

### 35.4 Muck Probing

If needed, probe standing water and surficial muck in a detailed pattern sufficient for determining removal limits to be shown in the Plans.

### 35.6 Drilling Access Permits

Obtain all State, County, City, and Water Management District permits for performing geotechnical borings, as needed.

### 35.7 Property Clearances

**The COUNTY shall provide for authorization to enter privately owned lands as needed for field operations. CONSULTANT shall provide written request to COUNTY to access privately owned lands.**

### 35.8 Groundwater Monitoring

Monitor groundwater, using piezometers.

### 35.9 LBR / Resilient Modulus Sampling – N/A

### 35.10 Coordination of Field Work

Coordinate all field work required to provide geotechnical data for the project.

### 35.11 Soil and Rock Classification - Roadway

Refine soil profiles recorded in the field, based on results of laboratory testing.

### 35.14 Seasonal High Water Table

If any additional roadway borings are performed, review the encountered ground water levels and estimate seasonal high ground water levels. Estimate seasonal low ground water levels, if requested.

### 35.15 Parameters for Water Retention Areas

Calculate parameters for any additional stormwater management areas, exfiltration trenches, and/or swales as needed.

### 35.16 Delineate Limits of Unsuitable Material

Delineate any limits of unsuitable material(s) in both horizontal and vertical directions **if additional muck probes were performed**. Assist the Engineer of Record with detailing these limits on the cross-sections. If requested, prepare a plan view of the limits of unsuitable material.

### **35.21 Geotechnical Recommendations**

Provide geotechnical recommendations for any new areas of exploration regarding the proposed roadway construction project including the following: description of the site/alignment, design recommendations and discussion of any special considerations (i.e. removal of unsuitable material, consolidation of weak soils, estimated settlement time/amount, groundwater control, high groundwater conditions relative to pavement base, etc.) Evaluate and recommend types of geosynthetics and properties for various applications, as required.

### **35.24 Final Report**

The Final Roadway Report for any new areas of exploration shall include the following:

Copies of U.S.G.S. and S.C.S. maps with project limits shown.

A report of tests sheet that summarizes the laboratory test results, the soil stratification (i.e. soils grouped into layers of similar materials) and construction recommendations relative to Standard Indices 500 and 505.

### **35.25 Auger Boring Drafting**

Draft auger borings as need for inclusion in the plans.

### **35.26 SPT Boring Drafting**

Draft SPT borings as needed for inclusion in the plans.

### **Structures**

The CONSULTANT shall be responsible for coordination of all geotechnical related fieldwork activities needed for all structures on the project for which there was not previously completed exploration or if additional exploration is needed.

The staff hour tasks for high embankment fills and structural foundations for bridges, box culverts, walls, high-mast lighting, overhead signs, mast arm signals, strain poles, buildings, and other structures include the following:

### **35.27 Develop Detailed Boring Location Plan**

Develop a detailed boring location plan. Meet with COUNTY Geotechnical Project Manager for boring plan approval. If the drilling program expects to encounter artesian conditions, the CONSULTANT shall submit a methodology(s) for plugging the borehole to the COUNTY for approval prior to commencing with the boring program.

### **35.28 Stake Borings/Utility Clearance**

Stake borings and obtain utility clearance.

### **35.30 Drilling Access Permits**

Obtain all State, County, City, Railroad and Water Management District permits for performing geotechnical borings, as needed.

### **35.31 Property Clearances**

**The County shall provide for authorization to enter privately owned lands as needed for field operations.**

### **35.32 Collection of Corrosion Samples**

Collect corrosion samples for determination of environmental classifications.

### **35.33 Coordination of Field Work**

Coordinate all field work required to provide geotechnical data for the project.

### **35.36 Estimate Design Groundwater Level for Structures**

Review encountered groundwater levels, estimate seasonal high groundwater levels, and evaluate groundwater levels for structure design.

### **35.37 Selection of Foundation Alternatives (BDR)**

Foundation analyses shall be performed using appropriate FDOT methods. Assist in selection of the most economical, feasible foundation alternative.

### **35.38 Detailed Analysis of Selected Foundation Alternate(s)**

Detailed analysis and basis for the selected foundation alternative. Foundation analyses shall be performed using approved FDOT methods and shall include:

Spread footings (including soil bearing capacity, minimum footing width, and minimum embedment depth).

For pile and drilled shaft foundations, provide graphs of ultimate axial soil resistance versus tip elevations. Calculate scour resistance and/or downdrag (negative skin friction), if applicable.

CONSULTANT shall assist the Structures Engineer of Record in preparing the Pile Data Table (including test pile lengths, scour resistance, down-drag, minimum tip elevation, etc.). Provide the design soil profile(s), which include the soil model/type of each layer and all soil-engineering properties required for the Structures Engineer of Record to run the FBPIER computer program. Review lateral analysis of selected foundation for geotechnical compatibility. Develop estimated maximum driving resistance anticipated for pile foundations. Provide settlement analysis.

### **35.40 Lateral Load Analysis (Optional)**

Perform lateral load analyses as directed by the COUNTY.

### **35.41 Walls**

Provide the design soil profile(s), which include the soil model/type of each layer and all soil engineering properties required by the Structures Engineer of Record for conventional wall analyses and recommendations. Review wall design for geotechnical compatibility and constructability.

Evaluate the external stability of conventional retaining walls and retained earth wall systems. For retained earth wall systems, calculate and provide minimum soil reinforcement lengths versus wall heights, and soil parameters assumed in analysis. Estimate differential and total (long term and short term) settlements.

### **35.43 Design Soil Parameters for Signs, Signals, High Mast Lights, and Strain Poles and Geotechnical Recommendations**

Provide the design soil profile(s) that include the soil model/type of each layer and all soil properties required by the Engineer of Record for foundation design. Review design for geotechnical compatibility and constructability.

### **35.44 Box Culvert Analysis**

Provide the design soil profile(s) that include the soil model/type of each layer and all soil properties required by the Engineer of Record for foundation design. Review design for geotechnical compatibility and constructability. Provide lateral

earth pressure coefficients. Provide box culvert construction and design recommendations. Estimate differential and total (long term and short term) settlements. Evaluate wingwall stability.

#### **35.45 Preliminary Report - BDR**

**Recommendations for foundation installation, or other site preparation soils-related construction considerations with plan sheets as necessary.**

An Appendix which includes SPT and CPT boring/sounding profiles, **data from any specialized field tests**, engineering analysis, notes/sample calculations, sheets showing ultimate bearing capacity curves versus elevation for piles and drilled shafts, a complete FHWA check list, pile driving records (if available), and any other pertinent information.

#### **35.46 Final Report - Bridge and Associated Walls**

The final structures report shall include the following:

**Recommendations for foundation installation, or other site preparation soils-related construction considerations with plan sheets as necessary.**

**An Appendix which includes SPT and CPT boring/sounding profiles, data from any specialized field tests, engineering analysis, notes/sample calculations, sheets showing ultimate bearing capacity curves versus elevation for piles and drilled shafts, a complete FHWA check list, pile driving records (if available), and any other pertinent information.**

#### **35.47 Final Reports - Signs, Signals, Box Culvert, Walls, and High Mast Lights**

The final reports shall include the following:

**The results of all tasks discussed in all previous sections regarding data interpretation and analysis).**

**Recommendations for foundation installation, or other site preparation soils-related construction considerations with plan sheets as necessary.**

**An Appendix which includes SPT and CPT boring/sounding profiles, data from any specialized field tests, engineering analysis, notes/sample calculations, sheets showing ultimate bearing capacity curves versus elevation for piles and drilled shafts, a complete FHWA check list, pile driving records (if available), and any other pertinent information.**

**Final reports will incorporate comments from the COUNTY and contain any additional field or laboratory test results, recommended foundation alternatives along with design parameters and special provisions for the contract plans. These reports will include the following:**

**Draft the detailed boring/sounding standard sheet, including environmental classification, results of laboratory testing, and specialized construction requirements, for inclusion in final plans.**

#### **35.48 SPT Boring Drafting**

**Prepare a complete set of drawings to include all SPT borings, auger borings and other pertinent soils information in the plans. Include these drawings in the Final Geotechnical Report. Draft borings, location map, S.C.S. map and U.S.D.A. map as directed by the COUNTY. Soil symbols must be consistent with those presented in the latest Florida COUNTY of Transportation Soils and Foundations Handbook.**

**COMMENT NOTE—IT IS NOT POSSIBLE TO OBTAIN SOIL SAMPLES IF THERE IS NO ACCESS.**

#### **35.49 Other Geotechnical**



Other geotechnical effort specifically required for the project as determined by the COUNTY, and included in the geotechnical upset limit.

### 35.51 Field Reviews

Identify and note surface soil and rock conditions, surface water conditions and locations, and preliminary utility conflicts. Observe and note nearby structures and foundation types.

**COMMENT INSERT—IN THE BELOW EMAIL FROM TOM MONTGOMERY REGARDING THE ACCESS ISSUE TO THE RRE, MR. MONTGOMERY STATED THAT THE BEXLEYS STILL OWN FROM THE CSX RR TRACKS WEST ABOUT 4300 FEET NEAR OR AT STA 355 MOL. THAT MEANS THE BEXLEYS OWN PART OR ALL OF THE LANDS NEEDED FOR BRIDGES 16 & 17 (SUNLAKE BLVD. LOCATION). NO ACCESS MEANS NO GEOTECHNICAL WORK CAN BE DONE, NO BRIDGE PILING BORINGS, ETC.**

John

That should get us to about Station 355+00 based on the Len-Angeline property line being at or near the "Bexley Easement" where we have bridges 16 and 17. Based on the Pasco View mapping that is what it looks like. **That is just west of the western boundary of Wetland 35.** CSX is at approximate Station 398+00 so there will be about 4300' not accessible (still Bexley property).

Thanks

Tom

**From:** John Bailey [<mailto:John.Bailey@cardno.com>]

**Sent:** Thursday, May 10, 2018 2:09 PM

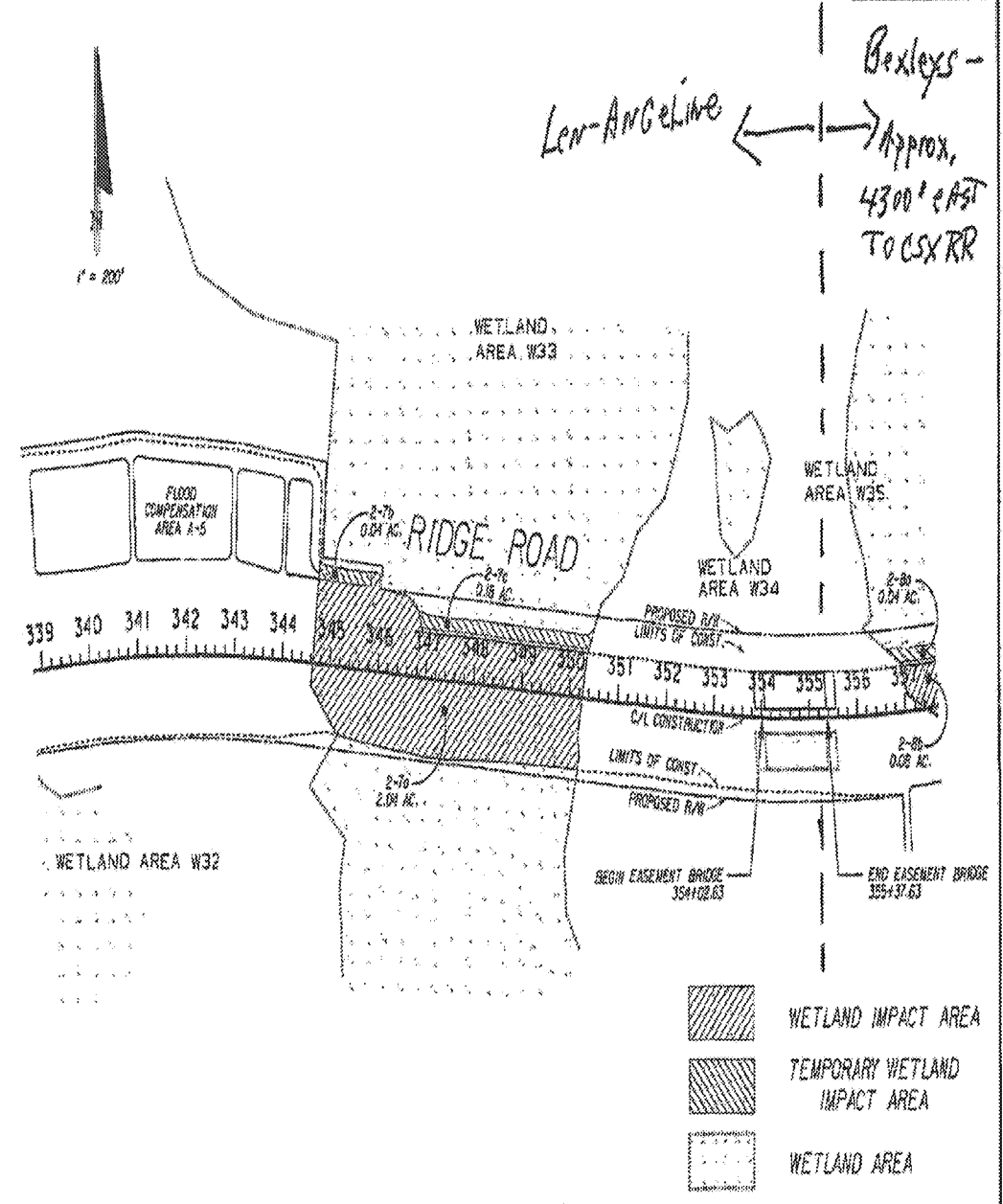
**To:** Sam Beneck <[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)>; Thomas Montgomery <[Thomas.Montgomery@nv5.com](mailto:Thomas.Montgomery@nv5.com)>

**Subject:** RE: Access to RRE phase 2 corridor

Sam: We can get out there after next week. 2 people, no more than 2 days. Can you give me a description of exactly where we can go?

John Bailey  
SENIOR PROJECT

THE MAP BELOW SHOWS THAT LOCATION.



**COMMENT INSERT--IN AN EMAIL ON 10/30/2017 JOHN BAILEY TOLD TOM MONTGOMERY THAT "... it sounds like we cannot finish the UMAM for Bexley without additional field work." THAT WAS OVER I YEAR AGO.**

**WHY IS THE ACOE STILL WAITING FOR DATA REQUIRED IN THEIR LAST MAY 11, 2017 RAI?**

Thanks Shane. I was out all last week. I am in the process of finishing up the UMAM Part I and II forms for everything west of the Suncoast. Anything you have would help, but **it sounds like we cannot finish the UMAM for Bexley without additional field work.**

John Bailey, PWS  
PROJECT SCIENTIST  
NATURAL RESOURCES & HEALTH SCIENCES DIVISION CARDNO Direct +1 813 257 0008 Mobile +1 813 625 5040 Address 3905 Crescent Park Drive, Riverview, FL 33578 Email [john.bailey@cardno.com](mailto:john.bailey@cardno.com)

-----Original Message-----

From: Hayes, Terry S (Shayne) CIV USARMY CESAJ (US) [<mailto:Terry.S.Hayes@usace.army.mil>]  
Sent: Thursday, October 26, 2017 9:55 AM  
To: John Bailey <[John.Bailey@cardno.com](mailto:John.Bailey@cardno.com)>  
Cc: Dwight Beranek ([dwight.beranek@gmail.com](mailto:dwight.beranek@gmail.com)) <[dwight.beranek@gmail.com](mailto:dwight.beranek@gmail.com)>; Dave Barrows ([barrows@teleport.com](mailto:barrows@teleport.com)) <[barrows@teleport.com](mailto:barrows@teleport.com)>; Shirley Denton <[Shirley.Denton@cardno.com](mailto:Shirley.Denton@cardno.com)>; Thomas Montgomery <[Thomas.Montgomery@nv5.com](mailto:Thomas.Montgomery@nv5.com)>; Sam Beneck <[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)>  
Subject: RE: SAJ-2011-00551 Pasco County / Ridge Road Extension - Bexley Wetlands (UNCLASSIFIED)

CLASSIFICATION: UNCLASSIFIED

John,

I've been meaning to respond to this request. Honestly, I don't think I have very much on UMAM. I did discuss UMAM with Shirley at a couple of locations, but I did not take extensive notes at every location. I will try to locate my notes today and let you know what I find.

V/r,  
Shayne

-----Original Message-----

From: John Bailey [<mailto:John.Bailey@cardno.com>]  
Sent: Wednesday, September 20, 2017 9:35 AM  
To: Hayes, Terry S (Shayne) CIV USARMY CESAJ (US) <[Terry.S.Hayes@usace.army.mil](mailto:Terry.S.Hayes@usace.army.mil)>  
Cc: Dwight Beranek ([dwight.beranek@gmail.com](mailto:dwight.beranek@gmail.com)) <[dwight.beranek@gmail.com](mailto:dwight.beranek@gmail.com)>; Dave Barrows ([barrows@teleport.com](mailto:barrows@teleport.com)) <[barrows@teleport.com](mailto:barrows@teleport.com)>; Shirley Denton <[Shirley.Denton@cardno.com](mailto:Shirley.Denton@cardno.com)>; Thomas Montgomery <[Thomas.Montgomery@nv5.com](mailto:Thomas.Montgomery@nv5.com)>; Sam Beneck <[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)>  
Subject: [EXTERNAL] RE: SAJ-2011-00551 Pasco County / Ridge Road Extension - Bexley Wetlands

Good Morning Shayne,

We are preparing the Ridge Road UMAM analysis. **We do not have access to the Bexley portion of the project at this time, and it looks like it may be awhile before we do. We have previous scoring for the Bexley wetlands, but we do not have the full blow Part 1 and Part 2 forms.** Would you be willing to provide us with any notes for these areas that you may have from our November 2016 field review? Anything you have would help. Thanks.

John Bailey, PWS  
PROJECT SCIENTIST

**COMMENT INSERT---THE ABOVE STATEMENT “...we do not have access to the Bexley portion of the project at this time, and it looks like it may be awhile before we do.” THAT “AWHILE” IS NOW APPROACHING 14 MONTHS.**

**THE BELOW EMAIL FROM PASCO’S RRE PROJECT MANAGER SAM BENECK SUGGESTS THAT THE ACOE MAY ACCEPT “HISTORICAL” DATA AND “EXTRAPOLATIONS” FOR UMAM WETLAND DELINEATION AND ANALYSIS DATA, AS WELL AS ESA LISTED SPECIES SURVEY UPDATES, IN LIEU OF ACTUAL ON-SITE SURVEY DATA. THIS IS DUE TO PASCO HAVING NO ACCESS TO THE BEXLEY RANCLANDS. THIS IS NOT POSSIBLE. IT GOES CONTRARY TO THE USFWS ESA MANDATE TO USE THE “BEST AVAILABLE SCIENTIFIC DATA” AT:**

<https://www.fws.gov/international/pdf/esa.pdf>  
DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES,

SEC. 4(b) BASIS FOR DETERMINATIONS.—(1)(A) “The Secretary shall make determinations required by subsection (a)(1) **solely on the basis of the best scientific and commercial data available** to him...”

**AND**

**36CFR § 219.3 Role of science in planning.**

The responsible official shall use the **best available scientific information** to inform the planning process required by this subpart for assessment; developing, amending, or revising a plan; and monitoring. In doing so, the responsible official shall determine what information is the most accurate, reliable, and relevant to the issues being considered. The responsible official shall document how the best available scientific information was used to inform the assessment, the plan or amendment decision...

**COMMENT INSERT--IT SHOWS THAT THE PASCO COUNTY RRE PROJECT MANAGER REALIZES THAT THE INABILITY TO GAIN ACCESS TO THE BEXLEY PROPERTY MEANS PASCO “...couldn’t**

**collect current environmental data.” THE FACT THAT HE USED THE TERM “CURRENT” MEANS THAT THE HE FULLY REALIZES THAT THE DATA WHICH IS REQUIRED BY THE ACOE, EPA, USFWS AND NMFS MUST BE “CURRENT” AND UP TO DATE SUCH THAT IT PROVIDES THE ACOE WITH THE “BEST AVAILABLE SCIENTIFIC DATA AS IS REQUIRED BY THE ENDANGERED SPECIES ACT OF 1973 CITED ABOVE.**

**From:** Sam Beneck <[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)>  
**Sent:** Thursday, December 7, 2017 12:12 PM  
**To:** Porebski, Peter <[Peter.Porebski@duke-energy.com](mailto:Peter.Porebski@duke-energy.com)>  
**Subject:** RE: 20171130 Ridge Road Status Report

Good morning Sir,

We were not able to secure a right of entry from one of the private land owners and as a result we couldn't collect current environmental data. The access has still not been resolved but we are moving forward with historical data and current aerial images and hope that the USACE will be satisfied with that information.



**Sam Beneck**  
Project Manager  
  
[Pasco County Project Management](#)  
  
P (727) 834-3604 x1614  
C (727) 753-8194  
5418 Sunset Rd, New Port Richey, FL 34652  
  
[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)

"Serving our community to create a better future."

We would love your feedback! Please [click here](#) to be directed to our online comment card.

**COMMENT INSERT—THE ACOE, AS WELL AS THE USFWS, MUST BASE THEIR DECISIONS ON “THE BEST AVAILABLE SCIENTIFIC INFORMATION.”**

**TO BE “SATISFIED” WITH “HISTORICAL DATA” AS PASCO SUGGESTS BECAUSE OF A LACK OF ACCESS TO PRIVATE PROPERTY WOULD NEVER BE DEFENDABLE IN FEDERAL COURT.**

**PART 2D—EVIDENCE IS PROVIDED BELOW THAT REQUIRES THE ACOE TO INVESTIGATE WHETHER OR NOT PASCO’S SUBCONSULTANTS DAWSON & ASSOCIATES, IN THEIR MONTHLY STATUS REPORTS, MAY HAVE BEEN PROVIDING INCORRECT INFORMATION TO THE ACOE. THERE IS CONTRADICTORY INFORMATION PRESENTED BELOW AND THE ACOE MUST INQUIRE AS TO WHICH IS THE CORRECT VERSION. FOR OVER ONE YEAR THE ACOE HAS RECEIVED REPORTS OF ONGOING “CONSULTATIONS” AND ‘PENDING AGREEMENTS’ WITH THE BEXLEY FAMILY LANDOWNERS. AND YET, THE EVIDENCE BELOW SHOULD CAUSE THE ACOE TO QUESTION THOSE REPORTS.**

**THE EMAIL BELOW CONFLICTS WITH THE DAWSON STATUS REPORT FOLLOWING THAT EMAIL. THAT EMAIL FROM THE PASCO DIRECTOR OF ENGINEERING SERVICES ON 11/28/2017 STATES: “...WE CANNOT WORK WITH BEXLEY...”**

**HOWEVER, ON THAT VERY SAME DAY DAWSON REPORTED TO THE ACOE THAT THEY WERE COORDINATING “...WITH THE LANDOWNERS EAST OF THE PARKWAY TO ACHIEVE AGREEMENTS.”**

**NOTES TAKEN BY MARGARET SMITH, PASCO ENGINEERING SERVICES DIRECTOR, AND SAM BENECK’S SUPERVISOR, ON 11/28/2017 ARE BELOW:**

From: Margaret W. Smith  
Sent: Tuesday, November 28, 2017 2:14 PM  
To: Sam Beneck  
Subject: FW: RRE Team call

**My sloppy copy of notes taken yesterday.**  
Bottom line:

**Dave's** Gut: by elim ph II, and by doing improvements on SR 52, could model now that it is underway..

Challenge: **Corp could deny everything....if the County is convinced that we need to allow development with addtl. Access points.**

Dave: **very concerned about cumulative effect...**

Dwight: would effect cost too....

Need the traffic study....if not... how do we advise the board.

Sam's Chart:

**Scenario 1:** traffic numbers show: **Ph II (developer access)** no appreciated changes... Core will ask us to assume worst case....

If we go urban, we'll have impact on hurricane evacuation...(lower speeds, etc.) ponds would have to be larger...(less gradient)...

Dave: Corp would want us to anal worst case....permitting duration would ....Permitting 24 months (sounds to me that we need to **jettison ph II**)

**Scenario 2:** **Jettison PH II**....assuming traffic is workable...this could be most feasible...Dave's Hunch...if the county submits a mod...corp would hae to consider a couple of things...1. Would have to extend 5 year window... 2. Less impacts **"we cannot work with**

**Bexley**...we've run some new numbers...it would be favorable from hurricane evac and mobility (considering SR 52 improvements)..we are dropping **ph II.**" We're fully expecting the Bexley's to come to the County to

Dwight...keeping phase II in is troublesome...looks more favorable to drop **ph ii**....Corp may feel better....

Dave....dropping ph ii will cause cannons to be pointed in a different direction...

Dave....the corp wanted a good strong record....

**If the county keeps ph ii, with the expectation that it will be a developer project....it will take a lot more effort to strengthen their record for approval or denial.**

### **Scenarion 3: Best Alternative:**

If Traffic is degraded:

(Dwight) TY Lin says it would still come out with favorable results related to hurricane evac

Dave: most hurricane evac scenarios were east of the Suncoast....

Tom: **We're thinking of doing half of alt 7 and half of alt 8.... (Cliff was even pushing this...)**...

Tom: benefits....if we can drop ph ii, we'll save money later...

**Sam:** great thought....**Divorce from developer is ideal...**

David: We still require some acquisition of some Bexley property...yes

David: **the Corp will be receptive to this change (dropping ph II) County published a 2035 use of property...if we don't have anything else, that's what the corp would use.**

Traffic Study re-do...5-6 weeks...

Margaret Smith, P.E.

Engineering Services Director/County Engineer Pasco County BCC | Public Infrastructure

P: 727-847-2411, ext 7452

Internal: x7452

West Pasco Government Center

8731 Citizens Drive, Suite 322

New Port Richey, FL 34654

[mwsmith@pascocountyfl.net](mailto:mwsmith@pascocountyfl.net)<<mailto:mwsmith@pascocountyfl.net>> | Website:

[www.pascocountyfl.net](http://www.pascocountyfl.net)<<http://www.pascocountyfl.net>>

**COMMENT--END OF EMAIL**

**COMMENT INSERT—THE PHRASE ABOVE “Divorce from developer is ideal...” NEVER HAPPENED.**

**ALMOST 1 YEAR AGO TO THE DAY (11/28/2017) DIRECTOR OF ENGINEERING SERVICES MARGARET SMITH’S NOTES INDICATE THAT SCENARIO 3 WOULD BE THE BEST SCENARIO AS FAR AS OBTAINING A PERMIT FROM THE ACOE. BUT IN 09/2018 THE BOCC DISREGARDED THAT SUGGESTION AND PROPOSED 7 NEW FULL ACCESS INTERSECTION ON PHASE 2, EVEN AFTER THEIR CONSULTANTS ADVISED OTHERWISE. HOW WILL MEMBERS OF THE FEDERAL JUDICIARY VIEW THIS INFORMATION?**

**AND EVEN AFTER MARGARET SMITH DECLARED THAT “WE CANNOT WORK WITH BEXLEY...” AND ON THAT SAME DAY (11/28/2017), DAWSON & ASSOCIATES SENT TO THE ACOE THEIR MONTHLY STATUS REPORT (SEE BELOW) STATING THAT THE COUNTY WAS CONTINUING**

**“...coordination with property owners east of the Suncoast Parkway to achieve agreements...”**

**From:** Dan Biles <[dbiles@pascocountyfl.net](mailto:dbiles@pascocountyfl.net)>

**Sent:** Tuesday, December 19, 2017 11:29 AM



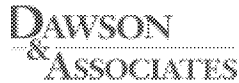
To: 'David Beznos' <david.beznos@drep.com>

Subject: RE: Ridge Road

## EMAIL ATTACHMENT # 1



20171130 Ridge  
Road Status Report.



**November 28, 2017**

**Pasco County/Florida's Turnpike Enterprise Ridge Road Extension  
Monthly Status Report**

### NOVEMBER 2017 STATUS

**The County continues discussions with property owners (principally the Bexley family) at the Suncoast Parkway interchange and Phase II section for access to their properties to complete detailed environmental studies (UMAM) and geotechnical design work.**

Completion of this task remains unclear resulting in delays in the completion of the UMAM analysis and subsequently to the permitting process. USACE has agreed to review the preliminary UMAM package for the Phase I area in advance of receiving the complete (Phase I, FTE and Phase II) package. **The County has directed that the UMAM analysis for these sections be completed using data currently available (i.e. without on-site access) to submit the completed UMAM analysis to USACE in a timelier manner.** Detailed engineering work continues to progress on or ahead of schedule. FTE is still evaluating its compensatory mitigation options, including using mitigation bank credits.

Referring to the attached November 22, 2017 CPM schedule, the status of current activities follows:

General: The schedule update is based on moving forward with completion of the UMAM for Phase 2 **without access to the Bexley property**. Completion of that work is anticipated by

**COMMENT INSERT—THE “...detailed environmental studies (UMAM) and geotechnical design work...” REFERRED TO ABOVE MUST BE ACCOMPLISHED BEFORE**

**ANY PASCO BIOLOGICAL ASSESSMENT (BA) CAN BE UPDATED AND REVISED AND BEFORE ANY FORMAL CONSULTATION BETWEEN THE ACOE & USFWS, AND A USFWS BO, CAN BE DONE.**

**AND IF AN APPROVED JURISDICTIONAL DETERMINATION WERE EVER REQUESTED AT A LATER DATE, THAT TOO WOULD BE IMPOSSIBLE WITHOUT ACCESS.**

**BELOW IS MORE EVIDENCE THAT THE APPLICANTS KNOW THAT THE LACK OF ACCESS IS A GAME CHANGER.**

December 22, 2017. This results in the anticipated date for the issuance of the USACE permit moving to October 17, 2018, six weeks later than the previous schedule forecasted.  
November 28, 2017

### **SUMMARY OF UPDATES AND STATUS**

- Activity 47, Preliminary Geotech for Bridges: All field work for areas west of Suncoast has been completed (borings for 15 of 19 bridges on project are complete). **Field work for the four remaining bridges in Phase 2 of the project is on hold until resolution of access to the Bexley property.** Reports summarizing the results of the completed borings and providing foundation recommendations are underway. Activity is approximately 80% complete.

Based on the current completion status the forecast date for obtaining the USACE permit has moved to October 17, 2018 from the previously forecasted date of September 5, 2018. This slippage is attributed to **continued delay of field activities that require access to property east of the Suncoast Parkway.** Direction was received to proceed with the UMAM without access to the Bexley property

November 28, 2017

### **NEXT STEPS**

Detailed Roadway, Landscape and Bridge plans will continue as scheduled. UMAM submittal to USACE for Phase I section is scheduled for December 2017. Suncoast Interchange and Phase II UMAM analysis will begin using best available data. **The County will continue coordination with property owners east of the Suncoast Parkway to achieve agreements** required to advance permit activities in these sections.

**COMMENT INSERT--THERE HAS BEEN ENOUGH EVIDENCE ALREADY PRESENTED TO SHOW THAT SUCH "AGREEMENTS" WITH THE BEXLEYS WILL NEVER HAPPEN.**

The co-applicants will continue their detailed work to respond to the USACE May 11, 2017 RAI. The co-applicants will forward a letter to USACE providing the status of their activities. Weekly conference calls with USACE will continue.

Submitted by:  
Dwight Beranek, P.E  
Senior Advisor  
Dawson & Associates

CF:  
Margaret Smith  
Sam Beneck  
Martin Horwitz  
Dave Barrows  
Rick Capka  
Tom Montgomery  
Steve Lewis  
SWFWMD

**PART 2E--COPIES OF PERSONAL LETTERS OVER THE YEARS TO THE BEXLEY FAMILY KEEPING THEM APPRISED OF THE RRE MOD 7 ISSUE.**

**COMMENT—IN ORDER FOR THE READER TO GET A MORE COMPLETE UNDERSTANDING OF EXACTLY WHY THE BEXLEY FAMILY IS SO ADAMENTLY AGAINST ANY FORM OF COOPERATION WITH PASCO COUNTY, THE 3 LETTERS BELOW, SPANNING A MORE THAN 12-YEAR PERIOD OF TIME, MAY PROVE HELPFUL. THE CLEAN WATER ACT (CWA), THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) AND THE COUNCIL ON ENVIRONMENTAL QUALITY (CEQ) ALL REQUIRE PUBLIC COMMENT. WHEN MEMBERS OF A COMMUNITY LIKE PASCO COUNTY SHARE INFORMATION WITH EACH OTHER, A GREATER AWARENESS OF COMMUNITY ISSUES ARE ONE OUTCOME OF THAT INTERACTION. THAT RESULTS IN BETTER COMMENTS FROM THE PUBLIC TO APPLICATIONS PRESENTED TO THE VARIOUS GOVERNMENTAL AGENCIES. THE LETTERS BELOW SENT TO THE BEXLEY FAMILY ARE EXAMPLES OF SUCH 'SHARING.'**

## **LETTER # 1**

James, Mabel, Jennifer,

Sure hope this New Year brings you peace and all the things you are wishing for.

Just last week we received from Pasco a public records request we made a month ago. There is some very interesting material in all of those over 300 documents related to the RRE. In order that you are fully aware of what is going on in their pea-brains, we are sending to you what we have found that may be of interest to you and to your attorneys.

Here is the stuff that we found. Hope you all are well. -----Dan & Sara

SUMMARY: PASCO IS WAY BEHIND IN THEIR PROJECTED SCHEDULE. THEY TALK ABOUT HAVING PROBLEMS GETTING ACCESS TO YOUR RANCH (ANGELINE) AND HOW THAT IS APPARENTLY HOPELESS. SO THEY PLAN TO SEND THE DATA THE ARMY CORPS HAS ASKED FOR IN THEIR MAY 11<sup>TH</sup> LETTER TO PASCO BASED ONLY ON "INTERPOLATION" (GUESSES & ESTIMATES) AND THAT WILL NOT WORK AND PASCO MUST KNOW THAT. THEY THINK THEY CAN "BLUFF" THE ARMY CORPS AND IT WILL NOT WORK. IF IT SOMEHOW DOES, IT WILL NEVER GET PAST A FEDERAL JUDGE IN A COURT CHALLENGE.

BUT THEIR AUGUST 25<sup>TH</sup> MEMO TO BILES (LAST ATTACHMENT) MENTIONS THAT THEY THINK (ERRONEOUSLY WE FEEL) THEY CAN USE EMINENT DOMAIN TO GAIN ACCESS TO YOUR PROPERTY. IT APPEARS PASCO HAS BEEN TRYING TO GET A DEAL FROM YOU TO ACCESS THE BEXLEY RANCH FOR OVER 6 MONTHS FROM WHAT WE HAVE READ. YOU WOULD THINK THAT IF THERE WAS ANYTHING TO THEIR TALK ABOUT USING EMINENT DOMAIN TO GET ONTO YOUR RANCH THEY WOULD HAVE DONE SO BY NOW. THE FLORIDA STATUTES (CITED BELOW) SAY THE COUNTY CAN GET ONTO YOUR PROPERTY USING A REGISTERED ENGINEER FOR SURVEY PURPOSES—BUT THERE ARE RESTRICTIONS (DISCUSSED BELOW). THERE ARE ALSO THINGS WE THINK YOUR ATTORNEYS CAN DO TO PREVENT THAT (ALSO DISCUSSED BELOW). THEN, AFTER ALL THAT "TALK" OF FORCING THEMSELVES ONTO YOUR RANCH USING SOME NEBULOUS FLORIDA STATUTE, THE COUNTY SAYS TO THE ARMY CORPS THAT THEY HAVE DECIDED TO JUST "INTERPOLATE" (GUESS AT) THE REQUIRED DATA THE ARMY CORPS SAYS THEY NEED TO MAKE A FINAL DECISION ON THE RRE PERMIT, UP OR DOWN.

SO IT APPEARS THAT THE COUNTY HAS THROWN IN THE TOWEL AND GIVEN UP ON GAINING ANY ACCESS, PROBABLY BECAUSE THEY KNOW THEY DO NOT HAVE A LEGAL FOOT TO STAND ON AND YOUR ATTORNEYS WILL CUT THEM TO PIECES IN ANY STATE COURT IF THEY TRY. THE FLORIDA STATUTE (CITED BELOW) ALSO MENTIONS THAT PASCO MUST GIVE YOU 3 DAYS NOTICE BEFORE THEY CAN INTRUDE ONTO YOUR PRIVATE PROPERTY USING A "REGISTERED ENGINEER." BUT SINCE PASCO HAS MADE THE COMMAND DECISION TO "GUESS AT" ALL OF

THE DATA THE ARMY CORPS REQUIRES, AND NOT ATTEMPT ANY 'ON-SITE' DATA COLLECTION, ALL OF PASCO'S TALK (BELOW) OF FLORIDA STATUTES ALLOWING THEM TO GET ACCESS TO PHASE 2 IS ALL 'BULL.'

YOU AND YOUR ATTORNEYS MAY HAVE A DIFFERENT "TAKE" ON ALL OF THIS. WE ARE NOT "LEGAL" TYPES, BUT WE HAVE SOME BRAINS AND CAN READ. WE COULD HOWEVER BE ALL WRONG ON OUR INTERPRETATION OF WHAT WE SEE GOING ON BEHIND CLOSED DOORS AT THE COUNTY COURTHOUSE.

## **LETTER # 2**

10/16/2009

Dear James and Mabel,

Decided to type this latest RRE update since my handwriting is getting sloppy (must be arthritis).

You must be wondering what is going on since the last newspaper articles in June stated that Pasco would have their answer shortly after mid-July, when they sent to the Corps all the final data and info required. I think I already sent to you the last letter from the Corps to Pasco (May 28, 2009) requesting info and giving them 30 days to hand it in.

Well, that was 5 months ago, and Pasco still has not sent in what they were supposed to send in—they say they are still working on it. The Army Corps deadlines are a joke—they have no teeth—and the County disrespects them. If the permit is ever granted, the federal judge in the lawsuit that will immediately be filed will not look kindly on that disrespect, nor on the Corps' own disregard for adherence to their requests to return requested data in a "timely manner." The fact that this permit application has taken over 10 years is a scandal. It points to gross incompetence by both the Corps and Pasco. It also goes against the ACOE requirement that they solicit and consider public comment. How can anyone from the public be expected to comment for a 10-year period? It is too much to ask. Hopefully the federal judge (if it goes that way) will also see it that way.

Now for the latest on the RRE.

1) Appraisal of the 200-foot wide ROW corridor for the RRE across your Ranch:

Enclosed is the Pasco BCC agenda of a month ago where they voted to give \$20,000 to a company to conduct an appraisal of that ROW swath across your Ranch. There is an email in there (enclosed) where one of those involved asks if they can gain access to your land to do the appraisal. I hope you all denied (or will deny) them that access. It will make their job that much more difficult. You may be wondering why the County is getting an appraisal when they do not yet have a permit? I think it may be for 2 reasons.

- A) The prices of land may be lower now—no demand—and they want to get it on the cheap, and
- B) Pasco has been hinted to or told by the ACOE (we think) that they will likely get the permit—the ACOE is doing a piss-poor job of following the various federal laws and their own regulations. It is in their “mindset” that they cannot deny wetland fill applications, but just “make them better and send them out.” They are wrong doing this—and it may take a federal judge to revoke any permit they try to issue for the RRE. No one wants it to go to court, since that is costly (for attorneys—but the plaintiffs get it back when the judge orders the defendants to pay the plaintiffs’ attorney costs). But you never know if you will get an equally incompetent judge who thinks the federal agencies can do no wrong. This incompetence is prevalent at the county level, the state & federal agency levels, and the judicial level as well—it is pervasive). That is why it is so important to get this application denied or shelved (until Gallagher retires or the County is forced by the regional transportation authorities to take the \$150 million set aside for the RRE and put that toward high-speed light rail mass transit down SR 54 (or SR 52) and give up on the RRE.

## 2) Multiuse trail across your Ranch alongside the RRE

The County is planning (long range—see maps enclosed) to put a “multi-use” trail (walking, biking—usually 12-feet wide—like on the Parkway) alongside one side of the RRE across your Ranch—if they ever get a permit for the RRE. They want to insert as much “junk” as possible along with the 4-lane road itself—it is a matter of control—they want to take over control of all large tracts of private lands. Their plan for Pasco is to make it another wall-to-wall concrete parking lot, like Pinellas now is.

There are a number of real “problems” with Pasco’s application that, if permitted, would send it directly to federal court (60-day notice of intent to sue). The ACOE would then immediately suspend that permit pending the court’s decision. That would take anywhere from 1-2 years—not counting the appeal in Atlanta if we lose the case (another 12-18 months). You never know what the Corps will do, but they cannot just ignore all those problems with the application.

One of the biggest is that the last scrub jay survey was in April, 2005, almost 5 years ago—and the survey—by federal law—is only good for 3 years. Pasco is being asked by the ACOE to redo the scrub jay survey for the entire 9-mile ROW--2 miles on either side of the ROW. How can they do that (get access to a 4-mile wide swath for 3.5 miles across your Ranch) if you do not allow them onto your land? So, they will have to gain that access from the courts or drop Phase 2 across your Ranch. That is probably why they are starting to get appraisals to take that ROW (200 feet wide, more or less). But that just gets them access to that 200-foot wide swath—not the rest of the 2 miles north and 2 miles south of the ROW the scientists will have to go on to survey for scrub jays.

There are other equally as important hurdles due to other federal requirements Pasco will have to jump. One is that Ted Phillips (4G Ranch) has not, and it seems will never, sign away in a conservation easement 804 acres of his 2,800 acres the County wants to use as mitigation for destroying 44 acres of wetlands for the RRE. Without that (and without you letting them onto your property) this thing is dead. Ted does not want to hobble his son, daughter, and grandkids (4 of them—that is where the name 4G came from—4 “G”randchildren) by taking away their freedom to do with that parcel what they want to in the future. And SWFWMD would own the conservation easement, have access to it whenever they wanted (invasion of privacy), and Ted would still pay taxes and have to accept ALL liability for any injury or death by a third party (like someone a SWFWMD employee brings along for the ride), AND the ACOE form of that conservation easement will allow NO hunting on that 804 acres. How can there be no hunting on a “licensed hunting preserve,” which the entire 4G Ranch is? That is another hurdle Pasco will not be able to clear.

And there are 3-4 others as well.

So, anything can happen in this current atmosphere, where the rules do not seem to count, there is rampant incompetence at every level of government, and the economy is in the tank.

The bottom line is that the RRE is far from a done deal—no matter what the papers may say. It is a waste of taxpayer dollars, is an invasion of your privacy, an unnecessary intrusion onto your property, and a misuse of the eminent domain process.

And besides, it is just wrong, period.

Will keep you posted. I may have to “jaw” with James about what the scrub oak trees look like, and where they occur on or within 4 miles of the RRE ROW. Do they have acorns dropping (a scrub jay’s main food—they bury then dig up to get through the winter}. The more scrub oaks there are (and the shorter they are—I suspect yours are too tall and overgrown), the better the case for a new scrub jay survey—which will be impossible for Pasco to do since they are forbidden access—hence they will have to drop Phase 2 east of the Parkway. At least then they will only be left with the part across the old Pottberg Ranch west of the Parkway. And that part has its own set of problems.

The scientists think the scrub jays may well be dispersing (moving to find food or mates) south from the Cross Bar and the Barthle’s Ranch, into the Conner Preserve south of SR 52, then west across your Ranch into the Serenova/Starkey Preserves. They may also be flying down the Cotee River corridor from Cross-Bar, onto your Ranch, and then south and west into the Serenova. This may not be happening, but after 3 years, they still have to check it out with another survey—to make sure. The Endangered Species Act requires it. That is something the Corps cannot ignore, or they will lose in court and get any permit they issue thrown back at them as invalid.

So, in summary, Pasco, after over 10 years, still has quite a lot to accomplish. The Corps must be convinced of this and stick to their guns and not cave in and just OK the permit to get rid of it, and then “let a judge decide.”

Hope this finds you all well. I may call James in a week or two. I would like to meet him. We built our own house in the mid-sixties, and over the last 45 years--a bit at a time, as we could afford the pine and cypress lumber. The walls are of #2 knotty pine,

1 x 6’s, tongue and groove, and the ceilings are of 1 x 8 cypress, tongue and groove. Some of that lumber may well have come from the forests on your Ranch (?). The ceilings are of cypress, since the roof leaks in the past years do not damage it as much as they would pine.-----Dan

### **LETTER # 3**

Dear James, Mabel,



Please first read below what Pasco sent to the Army Corps.

## **Revised Biological Assessment Report**

for

### **Ridge Road Extension**

Pasco County Engineering Services Department  
PREPARED BY:

CARDNO, INC.  
3905 CRESCENT PARK DR  
RIVERVIEW, FLORIDA 33578

## **April 2016**

**101 PAGES**

**PAGE 11**

This Biological Assessment Report is based on the 2012-2013 survey (with limited updates in 2016) to account for changes in listing status (for the wood stork) and changes in available data and scientific publications relevant to the biological assessment (for wood stork, Florida scrub-jay and eastern indigo snake).

## **2 Project Description**

**Page 12**

East of the Suncoast Parkway, the Extension is primarily a 4-lane divided at-grade roadway. Two bridges, one at a north-south easement within **the Bexley property** and one over the CSX railroad are included.

**Page 22**

Interdependent actions are those that have no independent utility apart from the action under consideration". **The proposed Extension is a**

**generally limited access roadway with an expected requirement of the USACE permit that no additional access points be permitted.**

The only access points are to existing areas of use that require access. The proposed roadway is critical for improved hurricane evacuation and to improve mobility within Pasco County, however it would not result in providing access to properties that may be developed in the future with the exception of one property east of the Suncoast Expressway. Therefore, there are no additional interrelated or interdependent actions associated with this proposed roadway.

What does the highlighted and underlined sentence above mean?  
How do you read it?

Pasco promised to you, in Item # 14 of the legal contract you signed with them granting them access/permission to come onto your Ranch in 2013 to do the required wildlife surveys, that you could have a full on/off intersection where the overpass bridge used to be located on the RRE design plans at the Bexley N/S easement. But that intersection will allow access to that entire Ranch in the foreseeable future. It is a big deal to the feds since now a "Secondary & Cumulative Impact Study" has to be done to quantify what adverse impacts may occur to the wetlands and wildlife habitat in that surrounding area that would not have occurred with a no-access overpass, but which may likely occur now because of that new intersection. That Study is long, expensive, and takes time. Pasco does not want to do that.

So, what does Pasco do? Those sly foxes have so far refused to show any intersection on any submittals to the Army Corps. All they show is that same old overpass. We could not figure why that was, since the ACOE project manager Tracy Hurst saw that contract (just like we did) and told Pasco they now had to have that Study done. Pasco has ignored her, and we could not figure out why.

Then we saw their latest submittal to the ACOE (above) from April 2016—5 months ago. That sentence, which we highlighted in blue and underlined, explains it all.

They are saying that they are anticipating an “...**expected requirement of the USACE permit that no additional access points be permitted.**”

They are asking the Army Corps to give them a permit and to put in that permit a “condition” that no extra access points (intersections) be allowed except for the one adjacent to the east side of the Parkway for a gas station and small food mart.

They are asking the Corps to FORBID the intersection they promised to give you in that legal contract they signed with you to get onto your Ranch to do those wildlife studies. They want the Feds to void that contract—that promise.

That complicated Study will probably find that there will be adverse environmental impacts to that Ranch because of that intersection and that will require more expensive mitigation to offset those impacts.

Pasco’ consultants are no idiots. They and Pasco MUST HAVE known that the intersection they legally promised to you would cause them complications, and so from the get-go they must have planned to never honor that promise and to ask the feds to void it.

We know Pasco too well. We know how they work. With them, it is all about money and development. It is what makes them ‘tick.’ But to sink this low surprises even us.

That old saying about “making a deal with the devil” sure fits here. And so does the other saying about the snake: “bite me once, shame on you; bite me twice—shame on me.” It would be wise to be very careful in any future dealings with Pasco. More often than not, they will come back to bite you in the ass.

Sorry to lay this rather bad and disappointing news on you all but thought you should know what Pasco has up their sleeve—what they are planning to do to ‘diss’ you.

Bo was right years ago when he had his attorneys tell Pasco that he was withdrawing the ROW gift he told them they could have for the RRE because he was tired of them “dicking him around.” That was classic.

Now, after almost 2 decades, they are still “dicking” people around. It is shameful.

Keep well.

Kindest regards,

Dan & Sara

**COMMENT INSERT—THE ABOVE 3 LETTERS ARE JUST SOME OF THE COMMUNICATIONS THAT WERE SENT, BACK AND FORTH OVER THE YEARS.**

**THE READER CAN MAKE WHATEVER CONCLUSIONS/ASSUMPTIONS HE OR SHE WISHES TO MAKE. THE BOTTEM LINE IS THAT THIS IS A CLASSIC EXAMPLE OF THE VALUE OF PUBLIC COMMENT AS REQUIRED IN THE CWA AND NEPA. THERE IS NO WAY A FEDERAL AGENCY REVIEWER CAN BEGIN TO KNOW THE VERY SPECIFIC DETAILS OF A REGION, NOR THE PUBLIC NEED AND POSSIBLE ADVERSE IMPACTS TO THE PUBLIC, THAT WOULD RESULT FROM A PROPOSED PROJECT FROM 450 MILES AWAY (PENSACOLA). BASING A PERMIT DECISION ONLY ON WHAT IS SUBMITTED BY OVERPAID CONSULTANTS WHO WORK FOR THE APPLICANT(S), AND AFTER JUST A BRIEF 2-DAY ON-SITE VISIT, WOULD BE RIDICULOUS. HENCE, THE VALUE OF PUBLIC COMMENT FROM CITIZENS WHO HAVE LIVED IN THE ACTION AREA, SOME FOR OVER 3/4<sup>TH</sup> OF A CENTURY.**

**PART 3--EVIDENCE THAT THE RECENT RRE MOD 7 PN NO LONGER SATISFIES THE PROJECT PURPOSE AS DEFINED BY THE ACOE.**

**THE FOLLOWING EVIDENCE WILL ESTABLISH THAT PASCO'S CONSULTANTS WARNED THEM THAT ANY ADDITION OF FULL ON/OFF ACCESS INTERSECTIONS WOULD POSE SERIOUS "CHALLENGES" TO THE REVIEW OF THE PERMIT APPLICATION.**

**BELOW IS FROM A 12/18/2012 LETTER FROM THE ACOE TO PASCO OFFICIALLY STATING THE PROJECT PURPOSE. NOTE HOW IT SPECICALLY STATES THAT THE EASTERN TERMINUS GOES TO U.S.41.**



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
10117 PRINCESS PALM AVENUE, SUITE 120  
TAMPA, FLORIDA 33610

December 18, 2012

REPLY TO  
ATTENTION OF

Tampa Permits Section  
SAJ-2011-00551 (IP-TEH)

Ms. Michele Baker  
Pasco County Board of County Commissioners  
7530 Little Road, Suite 320  
New Port Richey, Florida 34654

Mr. John Post, Jr.  
Florida Department of Transportation  
Florida's Turnpike Enterprise  
Post Office Box 613069  
Orlando, Florida 34761

Dear Ms. Baker and Mr. Post:

This is in reference to your permit application requesting authorization from the U.S. Army Corps of Engineers (Corps) to impact waters of the United States in association with a project known as "Ridge Road Extension" (SAJ-2011-00551 (IP-TEH)).

As noted in our July 23, 2008 correspondence, the preferred alternative provides increased roadway capacity east of the Moon Lake Road - Starkey Boulevard north-south corridor to US-41. Therefore, as noted in our November 15, 2012 meeting, the Corps has refined the overall project purpose from that featured in the public notice. The overall project purpose, as defined by the Corps for the purpose of conducting the alternatives analysis, is as follows:

To improve east-west roadway capacity and enhance overall mobility within the area bounded by SR-52 to the north, SR-54 to the south, US-41 to the east, and Moon Lake Road / DeCubellis Road / Starkey Boulevard to the west in accordance with the County's current Comprehensive Plan and the Metropolitan Planning Organization's Long Range Transportation Plan. The project will also provide additional roadway capacity and improved routing away from coastal hazard areas and improve hurricane evacuation clearance times in the event of a hurricane or other major weather-related occurrence in accordance with State of Florida requirements and the County's current Comprehensive Plan.

Sincerely,

*Kevin D. O'Kane*  
Kevin D. O'Kane  
Chief, Tampa Permits Section

Since There is no funding  
for Phase 2 to US41 + a high  
probability Phase 2 will never be  
built, the MOD DOES NOT achieve  
the Project Purpose as stated by  
Chief Kevin O'Kane.

**COMMENT INSERT—BELOW, DAVE BARROWS TRIES TO TELL PASCO THAT CHANGING THE LIMITED ACCESS NATURE OF THE PROJECT WOULD RESULT IN “CHALLENGES” SINCE THAT GOES AGAINST THE “..project purpose as determined by the Corps and relied upon by the County when preparing the Alternatives Analysis that was submitted to the Corps in 2015.” ASSUMING THAT DAVE IS CORRECT, THAT WOULD MEAN THAT NOT ONLY DOES THE RRE MOD 7 NO LONGER SATISFY THE PROJECT PURPOSE, BUT THAT, ACCORDING TO DAVE, THAT 2015 ALTERNATIVES ANALYSIS IS NO LONGER ANY GOOD, SINCE IT WAS BASED ON THAT ACOE-DEFINED PROJECT PURPOSE. IT APPEARS THAT PASCO IS FACED WITH A COMPLETE START OVER FOR THIS APPLICATION.**

**From:** barrows@teleport.com [mailto:barrows@teleport.com]  
**Sent:** Thursday, May 24, 2018 4:02 PM  
**To:** 'Sam Beneck' <sbeneck@pascocountyfl.net>  
**Cc:** 'Margaret W. Smith' <mwsmith@pascocountyfl.net>; 'Dwight Beranek' <dwight.beranek@gmail.com>; Thomas Montgomery <Thomas.Montgomery@nv5.com>; 'John Bailey' <John.Bailey@cardno.com>  
**Subject:** RE: RRE - assessment from the Len-Angeline team

I pulled excerpts from several documents that illustrate the challenges associated with any potential modifications to the current permit application, **especially if they included changes the limited access aspects of the proposed project.**

Also, I provided an excerpt of **the current statement of project purpose as determined by the Corps** and relied upon by the County when preparing the Alternatives Analysis that was submitted to the Corps in 2015.

**COMMENT INSERT—BELOW TOM MONTGOMERY ALSO ATTEMPTED TO WARN PASCO THAT EVEN THE CURRENT GRADE SEPARATION FOR ASBEL ROAD EAST OF THE CSX RR TRACKS “...was not planned to be grade separated...” AND YET “...there are items in the project record (e.g., LRTP, latest alternatives analysis) that do document grade separation at Asbel.”**

**From:** Thomas Montgomery [mailto:Thomas.Montgomery@nv5.com]  
**Sent:** Thursday, June 21, 2018 12:55 PM  
**To:** Sam Beneck  
**Subject:** RE: Ridge Road Extension - 2011 USACE Public Notice

Sam

**At the time of the Public Notice Asbel was not planned to be grade separated but as you know, there are items in the project record (e.g., LRTP, latest alternatives analysis) that do document grade separation at Asbel.**

Tom

**Tom Montgomery, P.E.** | Vice President | [NV5](#)  
1713 South Kings Avenue | Brandon, FL 33511 | M: 352.901.8485

**COMMENT—EVEN PASCO’S OWN PROJECT MANAGER SAM BENECK BELOW ADMITS A NEW PUBLIC NOTICE WILL LIKELY BE REQUIRED AND MUST INCLUDE CORRECTIONS TO ALL OF THE PREVIOUS ERRORS/OMISSIONS, SOMETHING THEY COULD NOT “...TALK OUR WAY OUT OF.”**

**DOES THAT INDICATE THAT PASCO COUNTY’S USUAL MODIS OPERANDI IS TO “TALK THEIR WAY OUT OF” THE REQUIREMENTS OF FEDERAL LAW? IF SO, IT IS NOT WORKING. THE USFWS HAS NOT BEEN SWAYED BY IT AT ALL, AS THEY STRICTLY ENFORCE THEIR OWN ESA REQUIREMENTS IN ORDER NOT TO BE INCLUDED IN A FEDERAL COURT CHALLENGE SHOULD A PERMIT BE GRANTED.**

**From:** Sam Beneck [<mailto:sbeneck@pascocountyfl.net>]  
**Sent:** Thursday, June 21, 2018 12:46 PM  
**To:** Thomas Montgomery <[Thomas.Montgomery@nv5.com](mailto:Thomas.Montgomery@nv5.com)>  
**Subject:** RE: Ridge Road Extension - 2011 USACE Public Notice

**Ok, thanks. I guess we probably won’t be able to talk our way out of another public notice then. Good to know Asbel wasn’t to be grade separated.**



**Sam Beneck**  
Project Manager  
Pasco County Project Management  
P (727) 847-2411 x1614  
C (727) 753-8194  
5418 Sunset Rd, New Port Richey, FL 34652  
[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)

*"Serving our community to create a better future."*  
We would love your feedback! Please [click here](#) to be directed to our online comment card



**COMMENT INSERT—TOM MONTGOMERY REFERS BELOW TO A REFERENCE MADE BY PASCO ON PAGE 6 OF THE 2011 PUBLIC NOTICE STATING THAT A FORMER INTERSECTION AT STA # 354-355 (SUNLAKE BLVD.) HAS BEEN CHANGED TO A NO-ACCESS BRIDGE, AND ON PAGE 2 THERE WILL BE A MEDIAN OPENING ACCESS POINT FOR THE MIXED-USE PARCEL AS WELL AS AN ACCESS POINT AT STA # 420 FOR THE ASBEL ROAD INTERSECTION. THAT ASBEL ROAD INTERSECTION WENT AGAINST PASCO'S STATEMENTS THAT THERE WOULD BE ONLY 1 ACCESS POINT AT THE MEDIAN OPENING.**

**AND THAT "BRIDGE" ON THE BEXLEY PROPERTY AT STA # 344-355 IS NOW GOING TO BE ONE OF THE 7 NEW INTERSECTIONS CITED IN THE 09/2018 PN. THAT GOES DIRECTLY AGAINST THE PROJECT PURPOSE TO PROVIDE A "LIMITED ACCESS" ARTERIAL ROADWAY.**

Sam

Here is an excerpt from page 6:

Both Phases I and II have been designed as limited-access facilities. Since the 2000 public notice, an access point within Phase II has been deleted in an area where an adjacent property owner holds an easement (Station 354+03 – Station 355+38). Instead of an access point, this area will be bridged.

**From:** Thomas Montgomery [<mailto:Thomas.Montgomery@nv5.com>]

**Sent:** Thursday, June 21, 2018 12:27 PM

**To:** Sam Beneck

**Subject:** FW: Ridge Road Extension - 2011 USACE Public Notice

Sam

Here is some additional discussion regarding access to Phase 2 that was on page 2 of the Public Notice:

at the existing Suncoast Parkway. Within Phase II, an access point is proposed at Station 296+50 to serve a parcel designated as mixed-use under Pasco County's Comprehensive Plan. This mixed-use parcel would be bisected by the proposed roadway. A second access point within Phase II is proposed at Station 420+00 to provide a connection for the future Asbel Road, a north-south connector road to serve existing residential development west of US-41.

It notes the access for the mixed use parcel but **does not address limitations to access from the mixed use parcels to surrounding areas.** It also addresses a connection to future Asbel Road. **Both of these items conflict with the "limited-access" discussion I previously sent from page 6. An argument probably could be made that RRE was never intended to be a Limited-Access facility** per the Greenbook definition of such a facility but rather an arterial highway with access being limited to select locations (which is how it has been designed).

Tom

**COMMENT INSERT--IT HAS FOR ALMOST 20 YEARS BEEN DESCRIBED AS A "LIMITED ACCESS FACILITY." PASCO CANNOT NOW REDEFINE THAT ROADWAY CLASSIFICATION TO WHATEVER THEY WANT IT TO BE.**

**COMMENT—THE BELOW EMAIL FROM DAVE BARROWS WAS SENT BEFORE PASCO COUNTY MADE THE CHANGES TO THE LIMITED ACCESS NATURE OF THE RRE TO AN ARTERIAL WITH MULTIPLE ACCESS INTERSECTIONS. HE CAUTIONED PASCO THAT SUCH "POTENTIAL MODIFICATIONS" WOULD CREATE "CHALLENGES." HE SPECIFICALLY TRIED TO WARN THE APPLICANT THAT A NEW ALTERNATIVES ANALYSIS MAY BE REQUIRED, SINCE THE PROJECT PURPOSE, AS DESCRIBED IN THAT ANALYSIS, WAS NO LONGER VALID.**

**From:** [barrows@teleport.com](mailto:barrows@teleport.com) [<mailto:barrows@teleport.com>]

**Sent:** Thursday, May 24, 2018 4:02 PM

**To:** 'Sam Beneck' <[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)>

**Cc:** 'Margaret W. Smith' <[mwsmith@pascocountyfl.net](mailto:mwsmith@pascocountyfl.net)>; 'Dwight Beranek' <[dwright.beranek@gmail.com](mailto:dwright.beranek@gmail.com)>; Thomas Montgomery <[Thomas.Montgomery@nv5.com](mailto:Thomas.Montgomery@nv5.com)>; 'John Bailey' <[John.Bailey@cardno.com](mailto:John.Bailey@cardno.com)>

**Subject:** RE: RRE - assessment from the Len-Angeline team

Thanks Sam. Appreciate the opportunity to review this assessment.

The Len-Angeline assessment is limited to the review of what was requested and provided by the County, and considered only a small portion on the administrative record. **Even the project purpose statement has changed since the 2011 PN based on the Corps determination of the overall project purpose** and it does not afford greater weight to mobility over hurricane evacuation.

I pulled excerpts from several documents that illustrate the **challenges** associated with any potential modifications to the current permit application, especially if they included changes the limited access aspects of the proposed project.

The first excerpt is from the USACE 2009 Standard Operating Procedures for Regulatory and addresses when to require a new public notice or a new permit application. Modifying the current permit application in a manner that changes the limited access commitment would likely trigger one or the other. In my judgment, it is very unlikely that the Corps would rely on the 2011 public notice (PN) to meet its public involvement obligations.

Next is an excerpt from the EPA 3(a) letter that it provided when commenting on the 2011 PN where it raises concerns regarding secondary and cumulative effects.

**Also, I provided an excerpt of the current statement of project purpose as determined by the Corps and relied upon by the County when preparing the Alternatives Analysis that was submitted to the Corps in 2015.**

I pulled three excerpts from the 2016 draft BA, which relied upon limited access to conclude no additional interrelated or interdependent impacts, future development is not dependent upon RRE, and no reasonably foreseeable impacts to conclude “no effect” on RCW.

Lastly, I included two excerpts from the 2013 Secondary and Cumulative Impacts Assessment that relied upon limited access support a determination that there are no growth inducing aspects associated with the RRE.

While all of these **challenges** could be addressed in time, it could require a new PN or new permit application, revising the AA, BA, and cumulative effects analysis. Thanks much...Dave

**COMMENT INSERT---THE YELLOW HIGHLIGHTING BELOW WAS TOM’S. HE REFERS TO THE TWO NOW NEW “CONNECTIONS” TO THE RRE AT THE SUNLAKE BLVD. INTERSECTION (THE OLD BEXLEY RANCH ROAD OVERPASS AT STA # 354 – 355), AND THE CONNECTION AT ASBEL ROAD EAST OF THE CSX RR TRACKS. HE STATES THAT THOSE “CONNECTIONS” “...would not be consistent with the project purpose, a significant change to the project.”**

**From:** Thomas Montgomery <[Thomas.Montgomery@nv5.com](mailto:Thomas.Montgomery@nv5.com)>

**Sent:** Thursday, May 24, 2018 3:08 PM

**To:** [barrows@teleport.com](mailto:barrows@teleport.com); 'Sam Beneck' <[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)>

**Cc:** 'Margaret W. Smith' <[mwsmith@pascocountyfl.net](mailto:mwsmith@pascocountyfl.net)>; 'Dwight Beranek' <[dwright.beranek@gmail.com](mailto:dwright.beranek@gmail.com)>; 'John Bailey' <[John.Bailey@cardno.com](mailto:John.Bailey@cardno.com)>

**Subject:** RE: RRE - assessment from the Len-Angeline team

It may also be important to note that the project purpose says “in accordance with the County’s current ...Long Range Transportation Plan.” **The current LRTP shows overpasses (not interchanges or intersections) at both the future Sunlake and Asbel north-south roadway crossings. Providing connections at these locations would not**

be consistent with the project purpose, a significant change to the project.

**COMMENT INSERT—BELOW IS FROM A 29-PAGE POWERPOINT PRESENTATION BY PASCO TO THE ACOE CURRENTLY IN THE ADMINISTRATIVE RECORD**

USACE & Agency Webinar  
November 9, 2016

**Project Purpose** “To improve east-west roadway capacity and enhance overall mobility within the area bounded by SR-52 to the north, SR-54 to the south, US-41 to the east and Moon Lake Road, Decubellis Road, Starkey Boulevard to the west in accordance with the County’s current Comprehensive Plan and the Metropolitan Planning Organization’s Long Range Transportation Plan. The project will also provide additional roadway capacity and improved routing away from coastal hazard areas and improve hurricane evacuation clearance times in the event of a hurricane or other major weather-related occurrence in accordance with State of Florida requirements and the County’s current Comprehensive Plan.”

**COMMENT INSERT—THE ABOVE SLIDE FROM THAT PRESENTATION STATES THAT THE PROJECT PURPOSE IS TO PROVIDE MORE TRAFFIC FLOW AND EVACUATION OPPORTUNITIES ALL THE WAY TO “...US-41 to the east...” IF THE PROJECT DOES NOT GO THAT FAR EAST, THEN IT DOES NOT SATISFY THE PROJECT PURPOSE. IF PASCO COUNTY CAN AFFORD TO CONSTRUCT ANOTHER ALTERNATIVE THAT WILL GO EAST TO US 41, WHICH WOULD BE MORE “PRACTICABLE,” AND THAT ALTERNATIVE HAS LESS WETLAND AND OTHER ENVIRONMENTAL IMPACTS, THEN THAT ALTERNATIVE IS THE LEDPA.**

**COMMENT INSERT---THE RRE MOD 7 NOW NO LONGER FITS THE DESCRIPTION BELOW FROM 40 CFR 1502.14 REGARDING “FEASIBILITY.”**

(5) Alternatives.

The Corps is neither an opponent nor a proponent of the applicant’s proposal; therefore, the applicant’s final proposal will be identified as the “applicant’s preferred alternative” in

the final EIS. Decision options available to the district engineer, which embrace all of the applicant's alternatives, are issue the permit, issue with modifications or conditions or deny the permit. (a) Only reasonable alternatives need be considered in detail, as specified in 40 CFR 1502.14(a). **Reasonable alternatives must be those that are feasible and such feasibility must focus on the accomplishment of the underlying purpose and need (of the applicant or the public) that would be satisfied by the proposed Federal action (permit issuance).** The alternatives analysis should be thorough enough to use for both the public interest review and the 404(b)(1) guidelines (40 CFR part 230) where applicable. Those alternatives that are unavailable to the applicant, whether or not they require Federal action (permits), should normally be included in the analysis of the no-Federal-action (denial) alternative. Such alternatives should be evaluated only to the extent necessary to allow a complete and objective evaluation of the public interest and a fully informed decision regarding the permit application.

**COMMENT INSERT—HOW CAN THE “UNDERLYING PURPOSE AND NEED” REFERRED TO ABOVE BE ACCOMPLISHED IF THE SECOND HALF OF THE PROJECT (PHASE 2) MAY NEVER BE CONSTRUCTED DUE TO LACK OF FUNDING AND LACK OF THE REQUIRED ENVIRONMENTAL AND GEOTECHNICAL ASSESSMENTS DUE TO THE NO ACCESS ISSUE ON PHASE 2?**

**IF THAT “PURPOSE AND NEED,” AS STATED IN THE PUBLIC NOTICE, CANNOT BE ACHIEVED, THEN THE APPLICATION MUST BE DENIED. THE ACOE CANNOT FORCE AN APPLICANT TO CONSTRUCT A PERMITTED ACTIVITY, BUT THEY CANNOT PERMIT AN ACTIVITY WHICH IS NOT “DOABLE” NOR “FEASIBLE,” AND NOT “PRACTICABLE” EITHER.**

**COMMENT INSERT—THE TABLE BELOW IS FROM PASCO’S 2015 ALTERNATIVES ANALYSIS. IT ORIGINALLY SHOWED THAT THE RRE DID NOT HAVE LOGISTICAL OBSTACLES RELATED TO BEING “CONSISTENT WITH THE LRTP,” OR HAVE “POLICY CONSISTENCY” ISSUES. THE 7 NEW ACCESS POINTS MAKE THE RRE NOW HAVE THOSE “LOGISTICAL OBSTACLES.”**

Table E-1  
Logistical Obstacles to Construction

Alternative No.	Description	Criteria		Policy Consistency/Approval (Yes/No)
		Consistent with LRTP	FDOT Approval Likely	
1	No Action	No	N/A	No
2	4-Lane RRE	Yes	N/A	Yes
3	4-Lane RRE	Yes	N/A	Yes
4	4-Lane RRE	Yes	N/A	Yes
5	4-Lane RRE	Yes	N/A	Yes
6	4-Lane RRE Elevated	Yes	N/A	Yes
7	4-Lane RRE Partially Elevated	NO	N/A	NO
8	SR 52 Add 4-Lanes	No	No	No
9	SR 54 Add 4-Lanes	No	No	No
10	4-Lane Tower Rd	Yes	N/A	Yes
11	SR 54 4-Lane Elevated	Yes	Yes	Yes
12	2-Lane Tower Rd SR 54 Add 2-Lanes	No	No	No
13	SR 52 Add 2-Lanes SR 54 Add 2-Lanes	No	No	No
14	2-Lane Tower Rd SR 52 Add 2-Lanes	No	No	No
15	2-Lane RRE 2-Lane Tower Rd	Yes	N/A	Yes
16	2-Lane RRE SR 52 Add 2-Lanes	No	No	No
17	2-Lane RRE SR 54 Add 2-Lanes	No	No	No

AS OF 9/2018  
NEW P. N.  
The 7 new  
intersections  
ARE NOT ON  
THE CURRENT  
LRTP -  
JUST 2 Bridges  
FOR Phase 2.

E-7

COMMENT INSERT—CONCLUSION TO PART 3---THE RECENT 09/2018 MODIFICATIONS TO THE RRE PERMIT APPLICATION RESULTS IN IT NO LONGER ACHIEVING THE PROJECT PURPOSE. IT ALSO NOW HAS "LOGISTICAL OBSTACLES" THAT PREVENT IT FROM BEING THE LEDPA.

PART 4A--EVIDENCE THAT THE SEPARATE PHASES OF THE RRE MOD 7 HAVE NO 'INDEPENDENT UTILITY' AND THAT THE ACOE CANNOT VIOLATE THE COUNCIL ON ENVIRONMENTAL QUALITY'S REGULATIONS REGARDING 'SEGMENTATION.'

COMMENT INSERT--BOTH PHASES AND THE INTERCHANGE ARE ONE PROJECT, AND BOTH ARE INTERRELATED AND INTERDEPENDENT. THAT IS WHY THE FTE INTERCHANGE WAS ADDED TO THE SECOND (REVISED) APPLICATION IN 2011. THE APPLICATION REVIEW MUST THEREFORE BE FOR THE ENTIRE PROJECT, BOTH PHASES AND THE INTERCHANGE. THE FACT THAT ONE OF THE APPLICANTS, PASCO COUNTY, HAS STATED IN THE MOST RECENT (09/2018-THIRD) PN THAT THEY WILL NOT DO ANY OF THE CFR-REQUIRED TASKS FOR PHASE 2, INCLUDING AN ASSESSMENT OF THE ADDITIONAL DIRECT & SECONDARY IMPACTS FOR THE PROPOSED 7 NEW INTERSECTIONS, NOR UPDATE ANY NOW OUTDATED ESA REQUIRED ENVIRONMENTAL SURVEYS, NOR PERFORM ANY GEOTECHNICAL WORK NECESSARY FOR THE CONSTRUCTION OF PHASE 2, NOR PERFORM ANY OF THE ACTUAL CONSTRUCTION FOR PHASE 2, ALL POINT TO THE FACT THAT THE APPLICANT, PASCO COUNTY, HAS UNILATERALLY DETERMINED THAT PHASE 1 AND THE INTERCHANGE DO INDEED HAVE INDEPENDENT UTILITY AND PHASE 2 CAN RECEIVE A COMPLETE ACOE APPLICATION REVIEW WHEN, AND IF, IT IS CONSTRUCTED "BY OTHERS." THAT MINDSET GOES AGAINST ALMOST EVERY REQUIREMENT OF THE CWA, ESA, NEPA, CEQ, APA AND SEVERAL EXECUTIVE ORDERS. IT IS AKIN TO PURCHASING A CAR FOR \$30,000, PAYING \$15,000 CASH, TELLING THE DEALER THAT SOMEONE ELSE AT A LATER DATE WILL PAY THE OTHER \$15,000, AND THEN WANTING TO DRIVE AWAY IN THAT CAR.

THIS SECTION WILL PROVE, USING ACTUAL STATEMENTS FROM PAST RRE PERMIT REVIEWERS, WHY WHAT PASCO IS SUGGESTING, AS FAR AS PHASE 2 IS CONCERNED, IS NOT POSSIBLE.

THE CODE OF FEDERAL REGULATIONS CITED BELOW CLEARLY STATES THAT PARTS OF A PROJECT THAT ARE RELATED AND HAVE NO INDEPENDENT UTILITY MUST BE REVIEWED IN A SINGLE EIS, AS A SINGLE "COURSE OF ACTION." THAT REVIEW CANNOT BE DONE FOR ONE HALF OF A PROJECT, WITH THE SECOND HALF LEFT TO SOME FUTURE "OTHER" ENTITY.

**Code of Federal Regulations - Title 40: Protection of Environment (December 2005).**

**<https://www.gpo.gov/fdsys/pkg/CFR-2010-title40-vol32/pdf/CFR-2010-title40-vol32-sec1502-4.pdf>**

40 CFR----PART 1502 - ENVIRONMENTAL IMPACT STATEMENT

1502.4 - Major Federal actions requiring the preparation of environmental impact statements.

(a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (1508.25) to determine which proposal(s) shall be the subject of a particular statement.

**Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.**

COMMENT INSERT--BELOW IS FROM FDOT ENGINEER LAMAR SMITH IN ANSWER TO A 2008 EMAIL INQUIRY:

Subject: RE: Logical termini, segmentation, independent utility & NEPA  
Date: Mon, 4 Aug 2008 08:11:15 -0400  
**From: Lamar.Smith@dot.gov**  
To: ramettadan@hotmail.com

FHWA's regulations includes the requirement at 23 CFR 771.111(f). The citation in the CEQ regulation you are looking for is 40 CFR 1502.4. You can't stop there though. **There are dozens of court cases that clearly set out the prohibition on segmenting actions.**

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**From:** Dan Rametta [mailto:ramettadan@hotmail.com]  
**Sent:** Monday, August 04, 2008 7:36 AM  
**To:** Smith, Lamar <FHWA>  
**Subject:** Logical termini, segmentation, independent utility & NEPA

Lamar,

The above attached website included your name as the 'go-to' person for questions about the FHWA's review process and the issues of 'logical termini,' 'segmentation' and 'independent utility' with reference to road projects.

Being intrigued with this issue, I tried to find in NEPA and in the Council on Environmental Quality a reference to the term '**segmentation**' with which the FHWA cites they have to comply, but to no avail.

**Where is the NEPA 'do not segment a project' rule?**

I think I understand correctly the following:



1) If a segment of a project has 'independent utility' and can stand on its own, then the issue of segmentation does not apply.

2) 'Logical termini' must be connected and included in the review process in order to comply with NEPA. That seems to preclude the omission of any segment without which a project would not have independent utility, be it at an end or in the middle of that road project. The intent here seems to be to avoid violating the 'do not segment' NEPA rule.

But where is that NEPA regulation? Is it in some obscure addendum to the original NEPA Guidelines?

I am just a citizen interested in this issue so if I interpreted anything wrong above, please correct me. Thanks. ---Dan Rametta

**COMMENT INSERT—THE NEPA REFERENCE BELOW REFERS TO THE DEFINITION OF IMPROPER SEGMENTATION AND THE FACT THAT THERE ARE COURT CASES, REFERRED TO BY LAMAR SMITH ABOVE, THAT HAVE CONSISTENTLY RULED AGAINST IMPROPER SEGMENTATION.**

Typically, situations involving **improper segmentation** occur where a major federal action is found to exist and the **segment** in question is analyzed in order to determine whether the particular **segment** has been separated from the whole to **prevent the application of NEPA to that segment**.

[https://ceq.doe.gov/docs/laws-regulations/NEPA\\_Cases\\_2005\\_NAEP\\_paper.pdf](https://ceq.doe.gov/docs/laws-regulations/NEPA_Cases_2005_NAEP_paper.pdf)

RECENT NEPA CASES (2005) Lucinda Low Swartz, Esq. Battelle Memorial Institute Washington, D.C.  
ABSTRACT This paper will review substantive NEPA cases issued by federal courts in 2005.  
The implications of the decisions and relevance to NEPA practitioners will be explained.

### Themes

- Courts wanted to see evidence of meaningful public involvement for environmental assessments o Sierra Nevada Forest Protection Campaign v. Weingardt (E.D. Cal) o Alliance to Protect Nantucket Sound, Inc. v. U.S. Department of the Army (1st Cir.) o El Dorado County v. Norton (E.D. Cal) o TOMAC v. Norton (D.D.C.)
- Courts invalidated NEPA documents that relied on flawed data o Natural Resources Defense Council v. U.S. Forest Service (9th Cir.) o Native Ecosystems Council v. U.S. Forest Service (9th Cir. August) o Ecology Center v. Austin (9th Cir.)

- A court invalidated a NEPA document that considered related actions separately because, among other things, it did not address cumulative impacts o Hammond v. Norton (D.D.C.)

### **NEPA Cases of Note**

The following four cases all considered the extent to which public involvement requirements applied to EAs. Sierra Nevada Forest Protection Campaign v. Weingardt (E.D. Cal. 2005)

The district court held that “although the CEQ regulations do not require the circulation of a draft EA, they do require that the public be given as much environmental information as is practicable, prior to completion of the EA, so that the public has a sufficient basis to address those subject areas that the agency must consider in preparing the EA.” The scoping notices were not sufficient because they did not contain an analysis of the environmental impacts of the projects. Alliance to Protect Nantucket Sound, Inc. v. U.S. Department of the Army (1st Cir. 2005)

The district court noted that the CEQ regulation requiring public involvement in EAs to the fullest extent practicable has been interpreted “to mean that ‘the public must be given an opportunity to comment on draft EAs and EISs,’” citing Citizens for Better Forestry, 341 F.3d at 970 (quoting Anderson v. Evans, 314 F.3d 1006, 1016 (9th Cir. 2002)).

### **The cases below addressed other important NEPA issues.**

Department of Agriculture (U.S. Forest Service [USFS]) Methow Forest Watch v. U.S. Forest Service No. 04-114- KI, 35 ELR 20019 (D. Or. Jan. 20, 2005)

Won

Segmentation, Cumulative Impacts.

The district court held that USFS did not violate NEPA by deciding to evaluate two special use permits for snowmobiling and helicopter skiing in separate EAs. The proposed actions were not related, although there were cumulative impacts. However, the court held that USFS adequately evaluated the cumulative effects of the proposed and existing winter recreation activities.

American Rivers, Inc. v. U.S. Army Corps of Engineers Nos. 04- 2737 et al., 35 ELR 20173 (8th Cir. Aug. 16, 2005)

Won

Alternatives.

**COMMENT INSERT—BELOW PROVIDES EVIDENCE WHY AN EIS IS SO IMPORTANT IN EVALUATING ALTERNATIVES TO ENSURE THAT THE PUBLIC HAS A COMPLETE UNDERSTANDING OF THAT EVALUATION.**

The litigation involved various parties challenge the operation of the Missouri River main stem reservoir system by the Army Corps and associated wildlife assessments produced by FWS. In upholding a lower court decision, the U.S. Court of Appeals for the 8th Circuit found that the Army Corps had adequately explained why its preferred alternative was superior to another evaluated alternative under NEPA. NEPA requires an agency to present the EIS alternatives in comparative form. In this case, the EIS included a detailed comparative analysis of the effects of all five alternatives on a wide range of interests including fish and wildlife resources, flood control, water supply, hydropower, recreation and navigation. This analysis, presented in a series of tables, enables the reader to compare the relative effectiveness of each of the alternatives, as required by NEPA. “If the adverse environmental effects of the proposed action are adequately identified and evaluated, the agency is not constrained by NEPA from deciding that other values outweigh the environmental costs.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989). There is no further NEPA requirement to repackage the information in the summary tables into prose one-to-one comparisons of the [preferred alternative] with each of the other alternatives. “We conclude that the comparisons provided in the EIS ‘cogently explain why [the Corps] has exercised its discretion in a given manner.’”

*Arkansas Wildlife Federation v. U.S. Army Corps of Engineers* No. 04- 35446, 35 ELR 20257 (8th Cir. Dec. 20, 2005)

Won

Cumulative Impacts. The U.S. Court of Appeals for the 8th Circuit held that the Army Corps complied with NEPA in connection with its plan to preserve an aquifer in the Grand Prairie Region in Arkansas. The Corps prepared an EIS and later an EA to address changes to the original plan. The court held that the EA adequately considered the project’s cumulative impacts of past, present, and future actions, and the Corps did not act arbitrarily or capriciously in refusing to prepare a supplemental EIS based on the new information. “Although other government agencies urged the Corps to wait for the completion of comprehensive studies of the White River basin by other entities, the Act only requires that the Corps consider and respond to the comments of other agencies. [NEPA] does not require the Corps to wait for other agencies to complete their studies, or to accept the input or suggestions of other agencies.” The court also found that “[b]ecause the FEA was properly tiered upon the FEIS and because the FEA provided an updated and adequate analysis of any new environmental impacts, we conclude that the cumulative impacts of the Project were properly considered in compliance with the Act.” In addition, the environmental groups challenging the project failed to show that the changes made in the original proposal were substantial.

*Department of the Interior (Bureau of Indian Affairs [BIA], Bureau of Land Management [BLM], Fish and Wildlife Service [FWS]) El Dorado County v. Norton* No. S-02- 1818 GEB DAD, 35 ELR 20014 (E.D. Cal. Jan. 10, 2005)

Won

Segmentation, Adequacy of EA, Alternatives, EA Public Involvement.

In a case involving EAs prepared by BIA and National Indian Gaming Commission for the proposed construction of a hotel and casino on an Indian reservation and an interchange and access road connecting the reservation to the highway, the district court held that the decision to segment review into two EAs did not violate NEPA. Two EAs were prepared because of jurisdictional considerations (California had jurisdiction over the interchange and access road). In addition, the interchange EA incorporated the casino EA by reference and considered the cumulative impacts of the project as a whole. The court also found that the EA adequately addressed potential environmental impacts and reasonably concluded that the impacts would not be significant such that an EIS was not required. "Both agencies made informed decisions in issuing FONSI for the projects and the decisions were not arbitrary or capricious." With respect to alternatives, the stated purpose of the proposed actions was to "improve the tribal economy by providing a sustained and viable economic base." The court held that the agencies only needed to consider alternatives that are reasonably feasible and related to the purpose of the project and that the agencies' consideration of the tribe's specific goals (including its desire to take advantage of the unique opportunities provided by the Indian Gaming Regulatory Act) in determining the range of alternatives was not arbitrary or capricious. Moreover, the plaintiff did not offer any reasonably feasible alternatives that the agencies failed to consider. Finally, the court noted that the CEQ regulation requiring public involvement in EAs to the fullest extent practicable has been interpreted "to mean that 'the public must be given an opportunity to comment on draft EAs and EISs.'" The agencies did issue the draft casino EA for public comment and were not required to circulate the FONSI prior to release

Hammond v. Norton No. 01-2345 (PLF), 35 ELR 20100 (D.D.C. May 13, 2005)

Lost

Segmentation.

The district court held that BLM violated NEPA by improperly segmented its analysis of a petroleum pipeline construction project from New Mexico to Utah. The pipeline segment did not have independent utility from another proposed pipeline project from Texas to New Mexico. In fact, the two pipelines had originally been proposed as one project. Agreeing with the plaintiffs, the court held that BLM improperly limited the scope of the EIS by "allowing the impact of the [Texas to New Mexico] project to be considered in a separate environmental review process and preventing the full environmental impacts of the combined projects from being considered adequately in the [New Mexico to Utah] ROW decision-making process." The court concluded that BLM acted arbitrarily in deciding, on the basis of the information in the administrative record at the time BLM prepared the FEIS, that the two projects were not "connected" actions. The court remanded the matter to BLM for the preparation of a Supplemental EIS addressing only the issue of whether the two pipeline projects are "connected actions" under 40 C.F.R. § 1508.25(a)(1). "If BLM concludes that the actions are not connected, it shall substantiate with concrete evidence, beyond that already set forth in the administrative record, the claim that the [New Mexico to Utah] pipeline has 'independent utility' from the [Texas to New Mexico] project, or other circumstances indicating with reasonable clarity that the [New Mexico to Utah] pipeline will not rely on the proposed [Texas to New Mexico] pipeline as a source of petroleum products."

**COMMENT INSERT--BELOW REFERS TO PARTS OF A PROJECT HAVING INDEPENDENT UTILITY AND WHICH CAN STAND ALONE. PAST ACOE PROJECT MANAGERS ARE ON RECORD STATING THAT THE RRE PHASES 1 ,2 AND THE INTERCHANGE DO NOT HAVE INDEPENDENT UTILITY. EVEN IF THAT WERE REVERSED, WITHOUT PHASE 2 THE PROJECT PURPOSE TO GO EAST TO US 41 WOULD NOT BE ACHIEVED.**

**[http://www.wtsinternational.org/assets/84/7/Segmentation\\_Claims\\_Under\\_NEPA.pdf](http://www.wtsinternational.org/assets/84/7/Segmentation_Claims_Under_NEPA.pdf)**

Segmentation Claims under the National Environmental Policy Act Sara Clark, Shute, Mihaly & Weinberger Federal Highway Administration (FHWA) regulations, 23 CFR § 771.111(f): In order to ensure meaningful evaluation of alternatives and to avoid commitments to transportation improvements before they are fully evaluated, the action evaluated in each EIS or finding of no significant impact (FONSI) shall: (1) Connect logical termini and be of sufficient length to address environmental matters on a broad scope; (2) Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and (3) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

**COMMENT INSERT--IMPROPER SEGMENTATION IS DEFINED BELOW:**

**<https://dukespace.lib.duke.edu/dspace/bitstream/handle/10161/5755/E.%20Veenendaal%20NEPA%20CAPSTONE%20PAPER%20%28Final%29.pdf?sequence=3>**

Avoiding Improper Segmentation and Accounting for Cumulative Impacts

Improper Segmentation

NEPA requires that federal agencies consider the environmental consequences of their decisions before they act, and to prepare a detailed statement of major federal actions significantly affecting the quality of the human environment.<sup>13</sup> This statement must address the environmental impact of a proposed action, the unavoidable environment impacts if the action is approved, alternatives to the proposed action, the relationship between short and long-term effects, and any irreversible commitment of sources if the proposed action is implemented.<sup>14</sup> Under NEPA, the Council on Environmental Quality (CEQ) was created, to assist in the development of the nations policies to meet the purposes of NEPA. <sup>15</sup> CEQ promulgated regulations establishing the NEPA environmental review process.<sup>16</sup> The CEQ regulations provide that a federal agency may only be required to complete the NEPA review process when its involvement in a project is sufficient to constitute a “major federal action.”<sup>17</sup> Actions include new and continuing activities, including projects entirely or partly financed by a Federal agency where there is some Federal control over the subsequent use of the Federal funds.<sup>18</sup> CEQ regulations define a “major federal action” as actions with effects that may be major and which are potentially subject to federal control and responsibility.<sup>19</sup> Although there is no definitive litmus test for determining what constitutes a major federal action, a project utilizing federal funds is generally considered a major federal action when there is the potential for significant environmental impact. <sup>20</sup> Thus, federally funded projects that significantly affect the quality of the environment must be accompanied by a NEPA review (CE, EA, or EIS) that considers the reasonably foreseeable effects on the environment.<sup>21</sup>

This environmental analysis is intended to evaluate the entire scope of a single and complete project. However, when a federal action is divided and analyzed into smaller separate components it is known as “segmentation.”<sup>22</sup> Since all projects must start and end somewhere, project components may have independent utility and can be considered individually under NEPA.<sup>23</sup> However, when an agency intentionally attempts to circumvent NEPA by dividing a federal action into smaller components in order to allow those smaller components to avoid studying the overall impacts of the single project then **“improper segmentation”** has occurred. <sup>24</sup> Thus, it is unlawful for agencies to evade their responsibilities under NEPA by artificially dividing a major federal action into smaller components, each without significant impact. To permit non-comprehensive consideration of a project divisible into smaller parts, each of which taken alone does not have a significant impact, but which taken as a whole has significant impact, would provide a clear loophole in NEPA.<sup>25</sup>

Typically, situations involving improper segmentation occur where a major federal action is found to exist and the segment in question is analyzed in order to determine whether the particular segment has been separated from the whole to prevent the application of NEPA to that segment.<sup>26</sup> **For example, where an agency prepares separate NEPA analyses for two segments of a highway that have logical starting and stopping points only when considered together as a single project.** Alternatively, an agency could improperly segment critical portions of a proposed project before the project was developed to the stage of becoming a major federal action. For example, if a circumferential freeway is planned and each segment cannot stand on its own without the construction of any other segments, but certain segments have environmentally sensitive habitat that require extensive studies and those segments are separated from the project in order to allow early construction of the segments not in environmentally sensitive habitat. In order to provide additional clarity on the issue, the courts have developed a four-factor test to determine whether improper segmentation has occurred. These factors include whether the proposed segment: (1) has logical termini; (2) has substantial independent utility; (3) does not foreclose the opportunity to consider alternatives; and (4) does not irretrievably commit federal funds for closely related projects.<sup>27</sup> While all factors have a modest weight, the analysis of a project's independent utility is the primary focus and the key factor in deciding most improper segmentation cases. First, the project must have a “Logical termini” for project development is defined as (1) rational end points for a transportation improvement, and (2) rational end points for a review of the environmental impacts.<sup>28</sup> Second, independent utility is determined by whether a project segment had an independent function, even if a no other segment of a project was constructed. **A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility.**<sup>29</sup> Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility. Simply, put when the segmented project has no independent jurisdiction, no life of its own, or is simply illogical when viewed in isolation, the segmentation will be held invalid.<sup>30</sup> Consequently, while all factors have a modest weight, the analysis of a project's independent utility is the primary focus and key factor of the most improper segmentation determinations.<sup>31</sup> The final two factors require that the project not foreclose the opportunity to consider alternatives nor irretrievably commit federal funds for closely related

projects.<sup>32</sup> These factors are intended to demonstrate that there is no clear nexus between the projects that would limit the federal government's ability to properly scope<sup>33</sup> the project and evaluate other alternatives as required by NEPA and to protect federal funds against the waste, fraud, or abuse.

**COMMENT INSERT--THERE ARE A NUMBER OF FEDERAL REQUIREMENTS THAT PROHIBIT SEGMENTATION OF A PROJECT WHOSE PARTS ARE INTERRELATED. THERE ARE 4 LISTED BELOW.**

### **1<sup>ST</sup> REFERENCE**

OVERVIEW OF THE NATIONAL ENVIRONMENTAL POLICY ACT: ENVIRONMENTAL IMPACT ASSESSMENTS AND ALTERNATIVES<sup>1</sup> By: Mark A. Chertok\* Sive, Paget & Riesel, P.C.

#### **b. Segmentation**

Another important aspect of the scope of the federal action to be assessed is the issue of "segmentation" -- the division of a project, program or decision into component parts or temporal "phases." Segmentation was frequently employed in the context of federal highway funding, where the FHWA would release funds for a small segment of a federal highway and consider only that segment, rather than the entire highway, in determining the need for an EIS. Such divisions of an action have, for the most part, been disallowed by the federal courts, both in highway and other

According to the CEQ regulations, agencies are only required, for environmental review purposes, to consider "connected actions", which are defined as proposed actions that: "(i) [a]utomatically trigger other actions which may require environmental impact statements; (ii) [c]annot or will not proceed unless other actions are taken previously or simultaneously; (iii) [a]re interdependent parts of a larger action and depend on the larger action for their justification."

**COMMENT INSERT—THE “LARGER ACTION” IS THE COMPLETION OF THE PROJECT PURPOSE EAST TO US 41. THE 2 PHASES ARE “INTERDEPENDENT PARTS OF [THAT] LARGER ACTION...” NEITHER ONE ALONE WILL ACHIEVE THAT PROJECT PURPOSE.**

<sup>83</sup> A project's "independent utility" is thus essentially determinative of whether it is "connected" to another action in such a way that a collective environmental impact assessment is required under NEPA.<sup>84</sup> While segmentation per se is not unlawful, courts are skeptical of attempts to divide projects into segments in order to circumvent the mandate of NEPA.<sup>85</sup> The Sierra Club I decision, while not employing the term, reflects rejection of an effort to "segment" a project to avoid acknowledgment of

significant environmental impacts.

Federal courts, however, have permitted segmentation in the highway context where it was demonstrated that there was "independent utility" for the segment, i.e., its sole purpose was not merely as one necessary piece of a larger planned road or network of roads.<sup>86</sup> The "independent justification" or "independent utility" test has also been applied in non-highway cases.<sup>87</sup>

**COMMENT INSERT—THE ABOVE EXPLANATION FITS THE RRE MOD 7 TO A “T.” THE “SOLE PURPOSE” OF EACH OF THE 2 PHASES IS TO ACT “...as one necessary piece of a larger planned road or network of roads.” FOR THERE TO BE INDEPENDENT UTILITY, AS STATED ABOVE, EACH SEGMENT MUST NOT BE JUST “... ONE NECESSARY PIECE OF A LARGER PLANNED ROAD...”**

## **2<sup>ND</sup> REFERENCE**

[http://206.131.241.18/elips/DM\\_word/3611.doc](http://206.131.241.18/elips/DM_word/3611.doc)

### **1.4 Consideration of Environmental Values.**

## **Department of the Interior**

## **Departmental Manual**

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**Effective Date:** 5/27/04

**Series:** Environmental Quality Programs

**Part 516:** National Environmental Policy Act of 1969

**Chapter 1:** Protection and Enhancement of Environmental Quality

**Originating Office:** Office of Environmental Policy and Compliance



(5) If proposed actions are planned for the same geographic area or are otherwise closely related, environmental analysis should be integrated to ensure adequate consideration of resource use...Proposals shall not be segmented in order to reduce the levels of environmental impacts reported in NEPA documents.

### **3<sup>RD</sup> REFERENCE**

#### **FROM 50 CFR PART 402**

402.09 Irreversible or irretrievable commitment of resources. After initiation or reinitiation of consultation required under section 7(a)(2) of the Act, the Federal agency and any applicant shall make no irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternatives which would avoid violating section 7(a)(2). This prohibition is in force during the consultation process and continues until the requirements of section 7(a)(2) are satisfied. This provision does not apply to the conference requirement for proposed species or proposed critical habitat under section 7(a)(4) of the Act.

### **4<sup>TH</sup> REFERENCE**

[http://txdot-emanuals1.dot.state.tx.us/txdotmanuals/env/logical\\_termini\\_and\\_independent\\_utility.htm](http://txdot-emanuals1.dot.state.tx.us/txdotmanuals/env/logical_termini_and_independent_utility.htm)

[3. Environmental Documentation](#) | [Environmental Manual](#) | [TxDOT Manual System](#)

## **Section 2: Logical Termini and Independent Utility**

### **Logical Termini**

Guidelines on selecting logical termini:

- Logical termini should encompass an entire project. Cutting a larger project into smaller projects may be considered “improper segmentation” under NEPA. If

**smaller segments are desired, the project should be evaluated for independent utility.**

**NOTE: FHWA has a 1993 paper on logical termini in addition to 23 CFR §771.111(f).**

**COMMENT INSERT--IF THE RRE ENDS AT THE INTERSECTION WITH THE SUNCOAST PARKWAY, WHICH IT MAY IN ACTUALITY DO SINCE THERE ARE NO GUARANTEES IT WILL EVER BE COMPLETED TO US 41, THEN NOT ONLY MUST IT, AS STATED ABOVE, "... be evaluated for independent utility..." BUT OTHER ALTERNATIVES WHICH WILL GO TO US 41 MUST BE EVALUATED IN A NEW ALTERNATIVES ANALYSIS WITH REGARD TO REASONABLE COST, ACHIEVEMENT OF THE PROJECT PURPOSE, NUMBER OF WETLAND AND LISTED SPECIES HABITAT IMPACTS, AND PLACEMENT ON THE COUNTY'S LRTP. ALTERNATIVE # 10 (TOWER ROAD) FOR ONE DOES ACHIEVES ALL OF THOSE PARAMETERS.**

**PART 4B--COMMENTS FROM 10-YEAR RRE PERMIT REVIEWER MIKE NOWICKI (2000 – 2010) WHICH INCLUDES HIS ANALYSIS THAT PHASES 1 AND 2 CANNOT BE SEPARATED AND, IF THEY ARE, A NEW APPLICATION MUST BE MADE FOR PHASE 1 ALONE. THAT WOULD BASICALLY BE A START OVER FOR PASCO.**

**MIKE NOWICKI OUTLINED 2 MAIN ISSUES RELATED TO INDEPENDENT UTILITY AND SEGMENTATION.**

**NOWICKI'S OVERALL COMMENT ISSUE #1—PASCO CANNOT "STUB OFF" PHASE 1 AND SAY THEY WILL DO PHASE 2 LATER. AS LONG AS BOTH PHASES ARE IN THE APPLICATION, THEN BOTH PHASES HAVE TO BE ASSESSED FOR DIRECT AND INDIRECT IMPACTS AND ESA REQUIREMENTS. OTHERWISE THEY WOULD BE VIOLATING NEPA AND THE NUMEROUS COURT RULINGS AGAINST ANY ATTEMPT AT SEGMENTATION TO CIRCUMVENT NEPA PROCEDURES.**

**NOWICKI'S OVERALL COMMENT ISSUE #2—NEITHER PHASE 1 NOR PHASE 2 HAS INDEPENDENT UTILITY. IF PASCO WANTS PHASE 1 ONLY THEN THEY MUST SUBMIT A NEW APPLICATION FOR THAT PHASE ALONE, SUBMIT A NEW ALTERNATIVES ANALYSIS THAT HAS ALL ALTERNATIVES ENDING AT THE PARKWAY AND PROVIDE A CONSERVATION EASEMENT AROUND THE MIXED-USE PARCEL EAST OF THE PARKWAY.**

**ACTUAL COMMENTS FROM MR. NOWICKI:**

**"WHEN THIS PROJECT HAD A THIRD PHASE WAY BACK BEFOE THE FIRST PN IN 2000, US-41 WAS A NATURAL BREAK AND PHASES 1 AND 2 COULD END AT**

**41. SUNCOAST DOES NOT ACT LIKE THAT SAME NATURAL BREAK THAT WOULD ALLOW PHASE 2 TO BE DELETED OR SHELVED UNTIL LATER BECAUSE OF THE BRIDGE AND THE NEED FOR CONNECTION TO THE SUNCOAST. TO MY MIND, THAT INTERCHANGE CANNOT HAVE STUB-OFFS TO SOME PHANTOM PHASE 2 WITHOUT ADDRESSING THE PHASE 2 IMPACTS AND ANY OTHER IMPACTS NORTH AND SOUTH OF PHASE 2 NOW. THE COE IS USED TO APPLICANT'S THAT LIKE TO WIGGLE THEIR WAY PAST THE REGS."**

**AND**

**"I SUGGESTED A BRIDGE AND THEY DID THE BRIDGE AS THE ONLY CROSSING THAT WAS FOR SLOW MOVING BEXLEY TRACTORS AND IT WOULD BE SAFER TO GO UNDER THE BRIDGE RATHER THAN GETTING HIT BY SOME DRIVER. ALSO TOLD THEM ABOUT THE BUT FOR AT THAT TIME TOO."**

**AND**

**"HOWEVER, THERE CAN BE NO MYSTERIOUS STUB OFFS INDICATING PHASE 2 IS A GO OR THE BUT FOR THING COMES IN AGAIN NOW NOT LATER."**

**AND**

**"THAT IS WHY PASCO MUST SHOW INDEPENDENT UTILITY IF THEY WANT PHASE 2 SOME 15 YEARS FROM NOW. DOES PASCO EVER EXPLAIN WHY PHASE 2 IS SHOWN ON THE LONG RANGE PLAN AS 2026-2030?"**

**"WOULD BE INTERESTING TO SEE HOW KEVIN VIEWS THAT POSSIBILITY. RIGHT NOW THE FULL AND COMPLETE PROJECT FOR THE RRE INCLUDES BOTH PHASES BEING BUILT WITHIN THE PERMIT EXPIRATION OF 5 YEARS."**

COMMENT INSERT-- THE ABOVE REFERENCE TO "KEVIN" WAS TO THE THEN TAMPA SECTION CHIEF KEVIN O'KANE, NOW RETIRED.

**"They are in a corner and no way out—Phases 1 & 2 or nothing. SEEMS LIKE THEY ARE NOT EXPLAINING OR WANTING A PHASE 1 PERMIT ONLY JUST PUTTING THAT FUTURE PHASE 2 STUFF IN THE WEEDS WITH THE OTHER DETAILS. THE PHASE 2 IMPACTS ARE STILL TO BE CONSIDERED FOR THE PERMIT ALONG WITH THE SEC AND CUM DUE TO THE CURB CUT IN PHASE 2.**

COMMENT INSERT—THAT "SEC & CUM" HE REFERS TO ABOVE WILL NOW RESULT IN MORE BOTH DIRECT (NOT MANY MORE) AND INDIRECT (A LOT MORE) IMPACTS DUE TO THE RECENT ADDITION OF 7 NEW INTERSECTIONS ON PHASE 2.

**"The permit is for the whole project—and NEPA does not allow SEGMENTATION. The record is full of "no independent utility" evidence. THE REASON FOR SHOWING INDEPENDENT UTILITY IS SO PASCO DOES NOT HAVE TO DO THE STUFF FOR PHASE 2. THERE COULD NOT BE STUB OFFS FOR PHASE 1 SINCE THAT WOULD NEGATE INDEPENDENT UTILITY. TO MY MIND I DO NOT THINK PASCO CAN SHOW PHASE 1 CAN STAND ALONE AS IF PHASE 2 IS NEVER BUILT.**

COMMENT INSERT—MR. NOWICKI CLEARLY STATES THAT PHASE 1 CANNOT STAND ALONE. HE SAYS THAT WOULD "NEGATE INDEPENDENT UTILITY."

#### CONCLUSION TO PART 4

PASCO COUNTY MAY EVENTUALLY ATTEMPT TO RECEIVE A PERMIT FOR PHASE 1 ONLY. THE MAIN REASONS ARE THAT THEY CANNOT AFFORD THE COST OF BOTH PHASES AND CANNOT GET ACCESS TO PARTS OF PHASE 2 TO DO THE REQUIRED ENVIRONMENTAL AND GEOTECHNICAL ASSESSMENTS. THE ADMINISTRATIVE RECORD CONTAINS PREVIOUS COMMENTS THAT SHOW PASCO HAS REPORTED PHASE 1 TO COST ALMOST \$90,000,000. THEIR MOST RECENT 2018 – 2019 CAPITAL IMPROVEMENT PLAN SHOWS THE ESTIMATED

**COST FOR PHASE 2, IF CONSTRUCTED TODAY, IS \$55,000,000. THAT INCLUDES \$44,000,000 MOL FOR THE SEGMENT FROM THE PARKWAY INTERCHANGE EAST ACROSS THE CSX RR TRACKS TO ASBEL ROAD (ROADWAY "A"), AND \$11,000,000 FROM THERE EAST TO US 41. THE TOTAL COST, IN TODAY'S DOLLARS, FOR BOTH PHASES 1 AND 2 WOULD BE APPROXIMATELY \$90,000,000 + \$44,000,000 + \$11,000,000 = \$145,000,000 AND NOT THE FIGURE THEY QUOTE TO THE ACOE OF ALMOST \$90,000,000 WHICH IS JUST FOR PHASE 1.**

**IF THE CURRENT LISTED \$15,500,000 COST FOR THE FDOT/FTE INTERCHANGE IS ADDED TO PASCO'S COST OF BOTH PHASES, THE TOTAL COST IF CONSTRUCTED TODAY, FOR THE RRE MOD 7 COMES TO \$160,500,000. WHEN COMPARED TO THE COST OF ALTERNATIVE # 10, TOWER ROAD ,AT JUST OVER \$60,000,000, AND THE COST TO PASCO OF WIDENING SR'S 54 AND/OR 52 AT ZERO DOLLARS, THOSE ALTERNATIVES ARE MORE LIKELY TO BE CONSTRUCTED EAST TO US 41 AND THEREFORE MORE "PRACTICABLE" THAN THE RRE MOD 7.**

**TO CONSTRUCT PHASE 1 ONLY WOULD ALSO ENTAIL PASCO PROVIDING THE ACOE WITH A LEGALLY SUFFICIENT CONSERVATION EASEMENT SIGNED BY LEN-ANGELINE, THE NEW OWNERS OF THE MIXED-USE PARCELS EAST OF THE INTERCHANGE FOR THOSE PARCELS. THAT IS SOMETHING PASCO HAS BEEN UNABLE TO ACCOMPLISH IN THE PAST 18 MONTHS SINCE THAT REQUIREMENT ITEM # 10 WAS INCLUDED IN THE ACOE'S MAY 11,2017 RAI TO PASCO.**

**PART 5--EVIDENCE THAT PASCO COUNTY WILL NEVER GET SIGNED, BY THE NEW LEN-ANGELINE OWNERS, THE ACOE'S CONSERVATION EASEMENT LIMITING ALL ACCESS TO THEIR OVER 2,900-ACRE PROPERTY TO/FROM THE TWO MIXED-USE COMMERCIAL PARCELS ADJACENT TO THE SUNCOAST PARKWAY.**

**COMMENT INSERT--IF THE APPLICANT CANNOT PROVIDE THE DATA REQUIRED BY THE ACOE (ITEM # 10 IN THE 05.11.2017 RAI) THEN THE FOLLOWING APPLIES:**

## **40 CFR 230.12 - COMPLIANCE WITH THE RESTRICTIONS ON DISCHARGE.**

[Part 230 - SECTION 404(b)(1) GUIDELINES FOR SPECIFICATION OF DISPOSAL SITES FOR DREDGED OR FILL MATERIAL]

[Subpart B - Compliance With the Guidelines]

[Sec. 230.12 Findings of Compliance Or Non - compliance with the restrictions on discharge.]

[From the U.S. Government Printing Office]

Sec. 230.12

(a) On the basis of these Guidelines (subparts C through G) the proposed disposal sites for the discharge of dredged or fill material must be:

(3) Specified as failing to comply with the requirements of these Guidelines where:

(iv) There does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines.

**COMMENT INSERT—THIS SECTION CONTAINS OVERWHELMING EVIDENCE FOR THE FACT THAT “There does not exist sufficient information...” IN AN EMAIL FROM COUNTY ADMINISTRATOR DAN BILES BELOW, HE STATES:**

From: Dan Biles  
Sent: Sunday, February 11, 2018 6:18 PM  
To: Sam Beneck  
Subject: FW: Dawson meeting

Sam,

I’m going to need you to coordinate a couple of meetings with Dawson regarding the RRE **with the developers of the Bexley parcel and then with the potential economic development project on the SW corner of the Bexley property.**

**COMMENT INSERT--THIS MUST BE A REFERENCE TO THE MIXED-USE PARCELS. LEN-ANGELINE NEVER AGREED TO THE PASCO/ACOE CE LANGUAGE. THEY INSTEAD SUBMITTED THEIR OWN CE LANGUAGE WHICH WAS, IN REALITY, NO CE AT ALL. IT IS THE ONE DAN BILES REFERS TO IN AN UPCOMING EMAIL AS BEING “DEAD ON ARRIVAL.”**

Let’s discuss tomorrow before you contact either Kartik or Dawson.

Thanks – Dan

**COMMENT INSERT—DAVE BARROWS IN THE EMAIL BELOW REFERS TO SAM BENECK’S COLLEAGUE TOM MONTGOMERY AS A “MASTER WORD SMITH.” BARROWS ALSO STATES THAT THE PROPOSED ‘CONDITION’ COULD NOT BE INCLUDED AS A “CONDITION” IN A FEDERAL PERMIT.**

**From:** David B. Barrows [<mailto:barrows@teleport.com>]  
**Sent:** Wednesday, March 21, 2018 7:31 PM  
**To:** 'Sam Beneck' <[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)>  
**Cc:** Thomas Montgomery <[Thomas.Montgomery@nv5.com](mailto:Thomas.Montgomery@nv5.com)>; 'Dwight Beranek' <[dwight.beranek@gmail.com](mailto:dwight.beranek@gmail.com)>  
**Subject:** RE: **Language from Len-Angeline**

Thanks Sam. We should discuss as you suggest; however, request that **your colleague, aka “master word smith”** take a look at it too.

Unlike the language developed by you and your colleague, **the proposed revision is not written in a manner that could be included as a condition to a Federal permit. At least, if I were the Corps reviewer, I would not include it.**

Thanks much...Dave

**COMMENT INSERT—AFTER SENDING THE PASCO VERSION OF THAT CE TO LEN-ANGELINE, THOSE OWNERS SENT BACK THEIR OWN VERSION, WHICH IS NO CE AT ALL.**

**From:** Sam Beneck [<mailto:sbeneck@pascocountyfl.net>]  
**Sent:** Wednesday, March 21, 2018 1:58 PM  
**To:** Dwight Beranek <[dwight.beranek@gmail.com](mailto:dwight.beranek@gmail.com)>; Dave Barrows <[barrows@teleport.com](mailto:barrows@teleport.com)>  
**Cc:** Thomas Montgomery <[Thomas.Montgomery@nv5.com](mailto:Thomas.Montgomery@nv5.com)>  
**Subject:** **Language from Len-Angeline**

Team,

We received new language from Len-Angeline for the access condition:

“Initial vehicular access from the Mixed Use Parcels legally described in Exhibit \_\_\_\_\_ to Ridge Road is through a single connection/intersection with Ridge Road generally located on Exhibit \_\_\_\_\_ and that this connection/intersection will not require impacts to wetlands determined to be waters of the United States within the affected parcels. The Corps reserves the right to undertake additional analysis, including Secondary and Cumulative Impacts evaluations, for separate, future projects that may propose cross connections to Ridge Road for such projects where the Corps’ jurisdiction is implicated. Nothing set forth herein shall constitute a waiver by Applicant or any third party of the right to seek approvals or permits from the Florida Department of Transportation or Pasco County, Florida for additional

access connections from the Mixed Use Parcel to Ridge Road, provided that the same are sought in accordance with applicable law.”

For reference, the language we had developed and sent to them is as follows:

“At such time that the parcels of property located at the northeast and southeast quadrants of Ridge Road and the Suncoast Parkway, which are legally described in Exhibit \_\_\_\_ attached hereto (the “Mixed Use Parcels”), are rezoned from A-C (Agricultural District) to a more dense or intense zoning category, the County shall ensure that vehicular access from Ridge Road to the Mixed Use Parcels is limited to a single intersection with Ridge Road which only serves the Mixed Use Parcels, unless otherwise approved in writing by the U.S. Army Corps of Engineers. The U.S. Army Corps of Engineers shall be identified as a third party beneficiary of the access limitation condition with the right to enforce such condition. The County shall provide copies of any zoning approvals for the Mixed Use Parcels, and any related plans or documents that implement this condition, to the U.S. Army Corps of Engineers within forty (45) days of the County’s final approval of such zoning, plans or documents.”

One more thing to talk about over the next few days.



<image002.gif> **Sam Beneck**  
Project Manager  
Pasco County Project Management  
P (727) 847-2411 x1614  
C (727) 753-8194  
5418 Sunset Rd, New Port Richey, FL 34652  
[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)

**COMMENT—BELOW IS FROM THE COUNTY ATTORNEY DAVID GOLDSTEIN REFERENCING DAWSON’S (DAVE BARROWS) COMMENTS TO THE LEN-ANGELINE VERSION OF THE PROPOSED CE. DAVE CONCLUDED THAT THE LEN-ANGELINE VERSION WOULD NOT BE ACCEPTABLE TO THE ACOE.**



**From: David Goldstein**

Sent: Friday, March 23, 2018 3:34 PM

To: Dan Biles; Sam Beneck

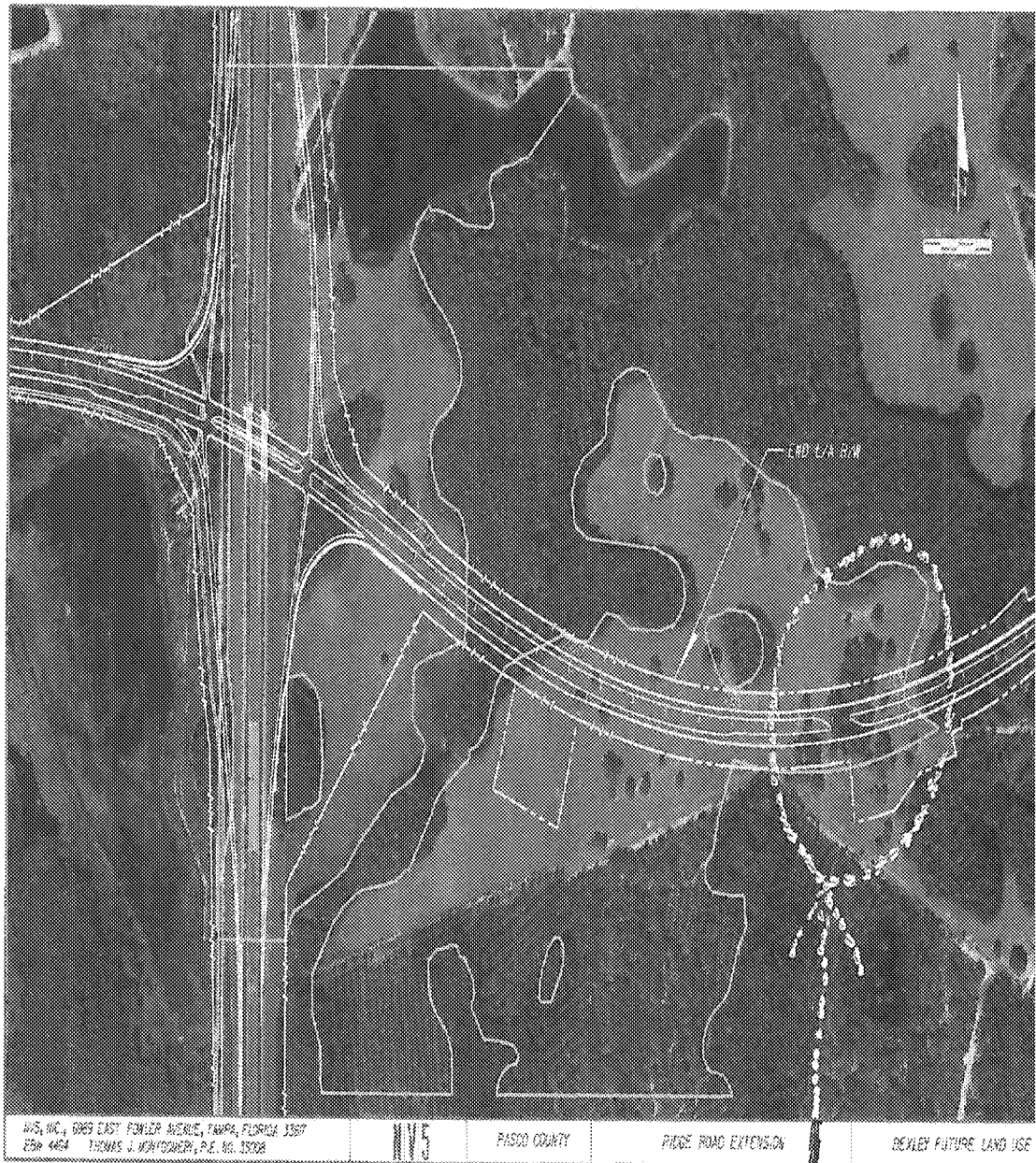
Cc: Margaret W. Smith

Subject: RE: **DA comments on RRE Access Language from Len-Angeline**

Can we send just the following to Clarke and see if he can revise to address Dawson's comments?

"Initial vehicular access from the Mixed Use Parcels legally described in Exhibit \_\_\_\_\_ to Ridge Road is through a single connection/intersection with Ridge Road generally located on Exhibit \_\_\_\_\_ and that this connection/intersection will not require impacts to wetlands determined to be waters of the United States within the affected parcels. (The Corps would not make this determination without a specific proposal to review that would be the basis for the determination. As such, the Corps would not stipulate to the no permit required determination proposed here. **Also, as Tom points out [Figure attached], it would be problematic to access portions of the MU parcels without impacts to wetlands.**) The Corps reserves the right to undertake additional analysis, including Secondary and Cumulative Impacts evaluations, for separate, future projects that may propose cross connections to Ridge Road for such projects where the Corps' jurisdiction is implicated. (This language ignores the specific requirements from the Corps, which is to make it clear that the Corps requires notice and approval before any changes are made to the permitted access. Further, this language restates requirements codified in regulation, so are not needed as a special permit condition.) Nothing set forth herein shall constitute a waiver by Applicant or any third party of the right to seek approvals or permits from the Florida Department of Transportation or Pasco County, Florida for additional access connections from the Mixed Use Parcel to Ridge Road, provided that the same are sought in accordance with applicable law." (The Corps includes permit conditions to protect Federal rights and interest. The only rights/approvals/requirements granted to the permittee are contained within the permit. Any deviation from what has been permitted would require prior Corps approval. The permit/permit conditions would not address third party interest or waivers except as specifically required by Federal law, e.g. 401 Water Quality Certification.)"

**COMMENT—THE “FIGURE ATTACHED” FROM TOM MONTGOMERY, REFERRED TO ABOVE BY GOLDSTEIN, FOLLOWS (ANNOTATIONS ARE OURS). IT SHOWS WETLANDS THAT HAVE TO BE IMPACTED FOR ANY MEDIAN ACCESS. THIS APPEARS TO BE NEW INFORMATION TOM FOUND. THIS MAP WILL BE SHOWN AGAIN IN PART # 8 WHEN THAT ‘NEW INFORMATION’ IS DISCUSSED IN DETAIL.**



NOTE WETLANDS where median  
 opening will be - Saxstom Montgomery.

**COMMENT INSERT--ON THE SAME DAY, PASCO COUNTY ADMINISTRATOR DAN BILES, REFERRING TO THE LEN-ANGELINE REFUSAL TO APPROVE OF THE CE CRAFTED BY PASCO, EXCLAIMED THAT THEY WOULD NEVER AGREE TO PASCO'S VERSION AND THAT "...IT'S DEAD ON ARRIVAL" AND THAT ALL PARTIES, INCLUDING DAWSON, SHOULD "...MOVE ON..." AS OF THIS WRITING OF COMMENT # 22 IN NOVEMBER 2018, IT HAS BEEN ALMOST 8 FULL MONTHS AND NO CE HAS BEEN, NOR IS EVER LIKELY TO BE, FORTHCOMING.**

From: Dan Biles

Sent: Friday, March 23, 2018 2:50 PM

To: Sam Beneck; David Goldstein

Cc: Margaret W. Smith

Subject: RE: **DA comments on RRE Access Language from Len-Angeline**

**We will never get the property owners to agree to the original language proposed by the County, its dead on arrival so we (Dawson included) need to move on and work to get language that can work for all parties.**

Thanks - Dan

**COMMENT INSERT—SAM BENECK BELOW REPORTS THAT DAVE BARROWS KNOWS THE LEN-ANGELINE CE LANGUAGE WILL NEVER BE ACCEPTABLE TO THE ACOE. HE SUGGESTS THAT PASCO JUST SUBMIT THEIR ORIGINAL CE LANGUAGE TO THE ACOE.**

**HOW DOES THAT WORK? PASCO WILL SUBMIT TO THE ACOE CE "LANGUAGE" THEY KNOW WILL BE ACCEPTABLE TO THE ACOE, WHILE KNOWING FULL WELL THAT LEN-ANGELINE WILL NEVER SIGN SUCH A CE DOCUMENT? WHAT IS GOING ON HERE?**

From: Sam Beneck

Sent: Friday, March 23, 2018 2:44 PM

To: David Goldstein; Dan Biles

Cc: Margaret W. Smith

Subject: DA comments on RRE Access Language from Len-Angeline

Gents, please see below from Dave Barrows with Dawson. For reference, the RAI language is also included.

**D&A recommends against using any of the Len-Angeline language and instead recommends the co-applicants submit the original language developed by the County as the response to RAI #10.**

**COMMENT INSERT—DAVE BARROWS IS QUOTED BELOW EXPLAINING TO PASCO ABOUT THE REQUIREMENTS AND THE SIGNIFICANCE OF CONSERVATION EASEMENTS.**

The purpose for the Corps to add permit conditions is to protect the rights and interests of the Federal government, satisfy legal requirements like compliance with the 404(b)(1) Guidelines, and/or to otherwise satisfy the public interest requirements that must be met before the Corps issues a permit. Permit conditions stipulate requirements that must be met by the permittee(s) in order for the Corps to issue the permit and for the permittee to remain in compliance with the permit. Permit conditions should be clear, concise, easily understood, and enforceable. **If the permit condition would not be enforceable, the Corps should deny the permit.**

The Corps made its requirements very clear when requesting information from the County in RAI#10 below. **In our judgment, the Len-Angeline language neither meets these requirements in whole or in part. The language suggested by Len-Angeline shown below is annotated with specific comments from D&A.** Please let me know if you have questions. Thanks...Dave

**COMMENT INSERT—BELOW, 40 CFR § 230.97, Management, STATES THAT CONSERVATION INSTRUMENTS MUST INCLUDE “...the right to enforce site protections...” AND DAVE BARROWS NOTED CORRECTLY THAT REQUIREMENT IN CFR § 230.97. HE ALSO POINTED OUT THAT THE LEN-ANGELINE CE VERSION DOES NOT ACCOMPLISH THAT SINCE, IN HIS OPINION, “...the permit condition would not be enforceable.” THAT 40 CFR § 230.97 IS FOUND AT:**

(a) Site protection. (1) The aquatic habitats, riparian areas, buffers, and uplands that comprise the overall compensatory mitigation project must be provided long-term protection through real estate instruments or other available mechanisms, as appropriate. **Long term protection may be provided through real estate instruments such as conservation easements...**the district engineer shall consider relevant legal constraints on the use of conservation easements and/or restrictive covenants in determining whether such mechanisms **provide sufficient site protection**. To provide sufficient site protection, a conservation easement or restrictive covenant should, where practicable, establish in an appropriate third party (e.g., governmental or nonprofit resource management agency) **the right to enforce site protections** and provide the third party the resources necessary to monitor and enforce these site protections. (2) The real estate instrument, ma

**COMMENT INSERT—THE BELOW LANGUAGE WAS SUBLITTED AS AN ALTERNATIVE TO PASCO'S LANGUAGE. DAVE BARROWS INSERTED COMMENTS USING THE \*\*\*\*\* ANNOTATION.**

"Initial vehicular access from the Mixed Use Parcels legally described in Exhibit \_\_\_\_\_ to Ridge Road is through a single connection/intersection with Ridge Road generally located on Exhibit \_\_\_\_\_ and that this connection/intersection will not require impacts to wetlands determined to be waters of the United States within the affected parcels. \*\*\*\*\*(The Corps would not make this determination without a specific proposal to review that would be the basis for the determination. **As such, the Corps would not stipulate to the no permit required determination proposed here. Also, as Tom points out [Figure attached], it would be problematic to access portions of the MU parcels without impacts to wetlands.**) \*\*\*\* The Corps reserves the right to undertake additional analysis, including Secondary and Cumulative Impacts evaluations, for separate, future projects that may propose cross connections to Ridge Road for such projects where the Corps'

jurisdiction is implicated. \*\*\*\*\* (This language ignores the specific requirements from the Corps, which is to make it clear that the Corps requires notice and approval before any changes are made to the permitted access. Further, this language restates requirements codified in regulation, so are not needed as a special permit condition.)

\*\*\*\*\*Nothing set forth herein shall constitute a waiver by Applicant or any third party of the right to seek approvals or permits from the Florida Department of Transportation or Pasco County, Florida for additional access connections from the Mixed Use Parcel to Ridge Road, provided that the same are sought in accordance with applicable law."

\*\*\*\*\* (The Corps includes permit conditions to protect Federal rights and interest. The only rights/approvals/requirements granted to the permittee are contained within the permit. Any deviation from what has been permitted would require prior Corps approval. The permit/permit conditions would not address third party interest or waivers except as specifically required by Federal law, e.g. 401 Water Quality Certification.)

**COMMENT INSERT—THE REFERENCE ABOVE TO TOM MONTGOMERY’S RECENT DISCOVERY OF THE “PROBLEM” OF ADDITIONAL WETLANDS BEING IMPACTED TO ACHIEVE ACCESS TO THE MU PARCELS FROM THE MEDIAN OPENING WILL BE DISCUSSED LATER IN THE LAST PART # 8 OF THIS COMMENT # 22.**

**COMMENT INSERT—THE 09-2017 EMAIL BELOW WAS SENT TO JENNIFER BEXLEY AND THE BEXLEY ATTORNEY AMY BOULRIS BY SAM BENECK. SAM WAS REQUESTING A MEETING WITH THEM, AS REPRESENTATIVES OF THE BEXLEY FAMILY, TO DISCUSS ITEM # 10 OF THE ACOE’S MAY 11, 2017 RAI REGARDING THE REQUIRED CONSERVATION EASEMENT (CE) AROUND THE TWO MIXED-USE PARCELS AT THE INTERCHANGE. SAM STATES THAT “... an access restriction is a requirement if a permit is to be issued.” THAT DECLARATION BY THE PASCO PROJECT MANAGER PRETTY MUCH SUMS UP THE CURRENT POSSIBILITY OF PASCO EVER GETTING A CWA 404 WETLANDS FILL PERMIT. TO THIS DAY, IN MID-NOVEMBER 2018, 14 MONTHS AFTER THAT DECLARATION, NOTHING HAS CHANGED, NOR WILL ANYTHING LIKELY EVER CHANGE. THERE WILL NEVER BE A CE APPROVED AND SIGNED FOR THOSE TWO ZONED COMMERCIAL PARCELS. WHY WOULD ANY FUTURE DEVELOPER AGREE**

**TO ISOLATE A 35-ACRE MOL COMMERCIAL PARCEL FROM THE REST OF HIS OR HER DEVELOPMENT?**

**AS SUCH, THIS APPLICATION MUST BE DENIED BY THE ACOE BEFORE ANYMORE LIMITED AND VALUABLE FEDERAL AGENCY TIME, AND PASCO TAX DOLLARS FOR CONSULTANTS, ARE WASTED.**

**From:** Sam Beneck [<mailto:sbeneck@pascocountyfl.net>]  
**Sent:** Wednesday, September 20, 2017 10:35 AM  
**To:** Jennifer Bexley; Boulris, Amy  
**Cc:** David Goldstein; Christopher S. Wert; Brian K. Skidmore  
**Subject:** Ridge Road Extension Permit Condition

Good morning,

In May of 2017 the US Army Corps of Engineers issued a request for additional information to Pasco County in regards to the ongoing permitting activities for the proposed Ridge Road Extension Project. This document is attached for your reference. **Item 10 in this request requires a restriction of access around a portion of your property. We have been working continuously with the Corps of Engineers since this letter was issued and understand that an access restriction is a requirement if a permit is to be issued.** Our team has prepared draft permit condition language that we believe will be acceptable to the Army Corps while preserving maximum flexibility which is below for your review:

“At such time that the parcels of property located at the northeast and southeast quadrants of Ridge Road and the Suncoast Parkway, which are legally described in Exhibit \_\_\_\_ attached hereto (the “Mixed Use Parcels”), are rezoned from A-C (Agricultural District) to a more dense or intense zoning category, the County shall ensure that vehicular access from Ridge Road to the Mixed Use Parcels is limited to a single intersection with Ridge Road which only serves the Mixed Use Parcels, unless otherwise approved in writing by the U.S. Army Corps of Engineers. The U.S. Army Corps of Engineers shall be identified as a third party beneficiary of the access limitation condition with the right to enforce such condition. The County



shall provide copies of any zoning approvals for the Mixed Use Parcels, and any related plans or documents that implement this condition, to the U.S. Army Corps of Engineers within forty (45) days of the County's final approval of such zoning, plans or documents."

We would like the opportunity to discuss this draft with you before sending language to the Army Corps. Please give me a call when you are available and I will set up a meeting time that works for you.

**Sam Beneck**  
Project Manager

Pasco County Project  
Management

P (727) 834-3604 x1614

C (727) 753-8194  
5418 Sunset Rd, New Port  
Richey, FL 34652

[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)

**COMMENT INSERT—FOR THE SAKE OF REFERENCE FOR THOSE NOT FAMILIAR WITH THE ACOE'S SPECIFIC CE REQUIREMENTS, THE SEGMENT BELOW IS ITEM # 10 OF THE ACOE'S MAY 11, 2017 RAI TO PASCO COUNTY REGARDING THAT CE REQUIREMENT AS A PROTECTION INSTRUMENT AROUND THE 2 COMMERCIALY ZONED PARCELS (TOTAL = 35 ACRES MOL) ADJACENT TO THE INTERCHNGE.**

**From:** Thomas Montgomery [<mailto:Thomas.Montgomery@nv5.com>]  
**Sent:** Thursday, March 22, 2018 9:27 AM  
**To:** [sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net); Dwight Beranek ([dwight.beranek@gmail.com](mailto:dwright.beranek@gmail.com))  
<[dwight.beranek@gmail.com](mailto:dwright.beranek@gmail.com)>; Dave Barrows ([barrows@teleport.com](mailto:barrows@teleport.com)) <[barrows@teleport.com](mailto:barrows@teleport.com)>  
**Subject:** FW: Language from Len-Angeline

This is item 10 in the RAI:

10. In a letter dated May 19, 2008, Pasco County responded to Corps' and EPA concerns regarding potential cumulative impacts associated with planned Ridge Road Extension access to two mixed-use parcels located approximately

3,275 east of the Suncoast Parkway. The County advised that it intended to require conservation easements along the perimeter of these two parcels to prevent access to other adjacent parcels, thereby reducing cumulative environmental impacts. Please provide a draft conservation easement and supporting exhibits that depict the boundary of the two mixed-use parcels and the location of the conservation easements. The conservation easement(s) should, at a minimum, meet the following requirements:

- a. Be legally sufficient
- b. Should not be granted to the Corps, but should grant third party rights to the Corps
- c. Be drafted in a manner that would not allow the conservation easement to be modified or released without permission from the Corps
- d. Should, without question, prevent future roadways, trails, bridges or development on, across, or over the conservation easement

**Please submit a draft conservation easement to the Corps so that it may be reviewed by our Office of Counsel.** Please note that prior to final concurrence by the Corps, a site specific survey and legal description of the conservation easement(s) will be necessary. For your reference, the following language is typically incorporated into Corps-approved conservation easements:

Rights of U.S. Army Corps of Engineers (Corps). The Corps, as a third-party beneficiary, shall have the right to enforce the terms and conditions of the Conservation Easement, including:

- (1) The right to take action to preserve and protect the environmental value of the Property;
- (2) The right to prevent any activity on or use of the Property that is inconsistent with the purpose of this Conservation Easement, and to require the restoration of areas or features of the Property that may be damaged by any inconsistent activity or use;
- (3) The right to enter upon and inspect the Property in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement;
- (4) The right to enforce this Conservation Easement by injunction or proceed at law or in equity to enforce the provisions of this Conservation

Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and the right to require Grantor, or its successors or assigns, to restore such areas or features of the Property that may be damaged by any inconsistent activity or use or unauthorized activities;

**PART 6--EVIDENCE THAT THE FDOT/FTE MAY NO LONGER SUPPORT THE RRE, OR ITS INTERCHANGE WITH THE SUNCOAST PARKWAY SINCE, AS WILL BE SEEN IN THIS PART OF COMMENT # 22, THEY ARE ON RECORD OPPOSING ALL PROJECTS THAT ARE NOT CONSISTENT WITH A COUNTY'S LONG RANGE TRANSPORTATION PLAN (LRTP). THE RECENT MODIFICATIONS TO THE RRE TO ELIMINATE NO ACCESS OVERPASSES AND ADD 7 NEW INTERSECTIONS ARE OUT OF COMPLIANCE WITH THAT LRTP. EVEN THOUGH THE COUNTIES CAN MODIFY/AMEND THOSE LRTP'S, THEY ARE A FEDERALLY REQUIRED DOCUMENT AND MUST HAVE EXTENSIVE PUBLIC COMMENT FOR ANY MODIFICATION. THE NEXT LRTP REQUIRED UPDATE IS NOT DUE UNTIL EARLY IN DECEMBER OF 2019, ONE MONTH AFTER PASCO SAYS THEY WILL RECEIVE THE ACOE PERMIT BY SEPTEMBER 2019. THAT INFORMATION WAS GIVEN TO AN ABC TV REPORTER BY PASCO COUNTY JUST LAST WEEK (SEE BELOW—AT**

[http://mms.tveyes.com/PlaybackPortal.aspx?SavedEditID=dea3c481-c227-4604-8969-8aa955fb1ac1&fbclid=IwAR2ozlh9dp2PEmk4LlgwuY2gVP-WSa7KnkOvL\\_uBXfpqxqHF29pTV-GZnYI](http://mms.tveyes.com/PlaybackPortal.aspx?SavedEditID=dea3c481-c227-4604-8969-8aa955fb1ac1&fbclid=IwAR2ozlh9dp2PEmk4LlgwuY2gVP-WSa7KnkOvL_uBXfpqxqHF29pTV-GZnYI)

**WFTS-TB (ABC) - Tampa Bay, FL  
Action News at 5:30PM**

**WFTS 11/12/2018 05:36:43 PM: "after more than two decades. pasco county officials now believe they can finally get approval for a major road project... they hope to have it completed by next september..." (THE REPORTER SHOULD HAVE SAID THEY EXPECT TO GET A PERMIT BY NEXT SEPTEMBER).**

**NOTE TO THE READER:**

**YOU MAY SKIP THE FOLLOWING ENTIRE EVIDENTIARY SECTION AND GO STRAIGHT TO PART 7 (EVACUATION) IF:**

**A-- YOU ARE ALREADY CONVINCED THAT THE RRE MOD 7 NO LONGER QUALIFIES FOR SUPPORT BY THE FDOT, SINCE ELEMENTS OF THAT ALTERNATIVE ARE NO LONGER ON PASCO'S LRTP. THAT SHOULD REMOVE THE FDOT/FTE'S SUPPORT FOR THE PARKWAY INTERCHANGE, AND/OR YOU ARE CONVINCED THAT**

**B-- ANY FURTHER DELAY UNTIL PASCO CAN MODIFY THAT LRTP IS UNACCEPTABLE AFTER 20 YEARS OF DELAY, AND THE APPLICATION NO LONGER QUALIFIES FOR ANY FURTHER CONSIDERATION BY THE ACOE.**

**COMMENT INSERT—BELOW TOM MONTGOMERY STATES THAT AT THE TWO NO-ACCESS (WITH THE RRE) LOCATIONS (SUNLAKE BLVD. & ASBEL ROAD) THE LRTP SHOWS OVERPASSES. INTERSECTIONS NOW WOULD “...not be consistent with the project purpose, a significant change to the project.”**

**From:** Thomas Montgomery <[Thomas.Montgomery@nv5.com](mailto:Thomas.Montgomery@nv5.com)>  
**Sent:** Thursday, May 24, 2018 3:08 PM  
**To:** [barrows@teleport.com](mailto:barrows@teleport.com); 'Sam Beneck' <[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)>  
**Cc:** 'Margaret W. Smith' <[mwsmith@pascocountyfl.net](mailto:mwsmith@pascocountyfl.net)>; 'Dwight Beranek' <[dwright.beranek@gmail.com](mailto:dwright.beranek@gmail.com)>; 'John Bailey' <[John.Bailey@cardno.com](mailto:John.Bailey@cardno.com)>  
**Subject:** RE: RRE - assessment from the Len-Angeline team

It may also be important to note that the project purpose says “in accordance with the County’s current ...Long Range Transportation Plan.” **The current LRTP shows overpasses (not interchanges or intersections) at both the future Sunlake and Asbel north-south roadway crossings. Providing connections at these locations would not be consistent with the project purpose, a significant change to the project.**

Tom

**COMMENT INSERT—SAM BENECK IN AN EMAIL BELOW STATES THAT, AFTER MEETING WITH ADMINISTRATOR DAN BILES REGARDING CHANGING THE ACCESS TO PHASE 2, MR. BILES FELT THAT THE RRE TEAM/GROUP, AND HE AS WELL, BELIEVED THOSE CHANGES “...would result in significant updates and delay. I think that is what he believes as well, or at least he knows it to be a strong possibility...” AND YET PASCO WENT AHEAD AND MADE THOSE CHANGES.**

**From:** Sam Beneck <sbeneck@pascocountyfl.net>  
**Sent:** Friday, May 25, 2018 9:10 AM  
**To:** Dwight Beranek <dwright.beranek@gmail.com>; barrows@teleport.com  
**Cc:** Thomas Montgomery <Thomas.Montgomery@nv5.com>; Margaret W. Smith <mwsmith@pascocountyfl.net>; John Bailey <John.Bailey@cardno.com>  
**Subject:** RE: RRE - assessment from the Len-Angeline team

Yes, please. **After meeting with Dan yesterday he understands that this group believes changing the access to phase 2 would result in significant updates and delay. I think that is what he believes as well, or at least he knows it to be a strong possibility.**

Thanks for the review.



**Sam Beneck**  
Project Manager

Pasco County Project Management

P (727) 847-2411 x1614

C (727) 753-8194

5418 Sunset Rd, New Port Richey, FL 34652

[sbeneck@pascocountyfl.net](mailto:sbeneck@pascocountyfl.net)

**COMMENT INSERT---THE FTE IS PART OF THE FDOT. THE FDOT IS IN THE ADMINISTRATIVE RECORD STATING THEY WILL NOT SUPPORT ANY PROJECT THAT IS NOT ON A COUNTY'S LRTP. THE RECENT PUBLIC 09/2018 NOTICE FOR THE MODIFICATION OF THE MOD 7 ALTERNATIVE TO ADD 7 NEW INTERSECTIONS, AS OPPOSED TO THE FORMER NO-ACCESS TWO BRIDGES/OVERPASSES, RENDERS THAT MOD 7 ALTERNATIVE OUT OF COMPLIANCE WITH THE CURRENT PASCO COUNTY LRTP. AS SUCH, THE RRE MOD 7, WITH ITS NEW ROADWAY CLASSIFICATION AS ARTERIAL, SUPERCEEDING THE FORMER CLASSIFICATION OF "LIMITED ACCESS," NO LONGER QUALIFIES FOR FDOT SUPPORT.**

THE FDOT/FTE CAN NO LONGER APPROVE FUNDING, CURRENTLY ESTIMATED AT \$15,500,000, FOR AN INTERCHANGE AT THE RRE MOD 7 AND SUNCOAST PARKWAY LOCATION.

IF AND WHEN A MODIFICATION TO THE PASCO COUNTY LRTP IS MADE, ONLY THEN WILL THAT RRE MOD 7 ALTERNATIVE BE ON THE PASCO COUNTY LRTP.

THE ACOE CANNOT POSTPONE A FINAL DECISION ON THIS APPLICATION IN THE ANTICIPATION OF THAT EVENT, AND NOT BE SEEN AS HAVING LOST THEIR REQUIRED 'OBJECTIVITY' AND BECOME A 'PROPONENT' OF THIS APPLICATION. THAT WOULD BE A VIOLATION OF NEPA, THE CWA AND OTHER FEDERAL REQUIREMENTS, AS WELL AS OF THEIR OWN GUIDELINES.

COMMENT INSERT--NOTE BELOW HOW, ACCORDING TO FDOT'S MR. STEINMAN'S STATEMENT IN 2013 IN SUPPORT OF THE RRE MOD 7, THE WORM HAS TURNED AND NOW, IN 2018, THE OPPOSITE IS TRUE. NOW THE RRE MOD 7 CAN NO LONGER BE SUPPORTED BY THE FDOT, USING MR. STEINMAN'S OWN PARAMETERS.



Florida Department of Transportation

JEFF SEITZ  
GOVERNOR

11201 N. McKinley Drive  
Tampa, FL 33612

ANANTH PRASAD, P.E.  
SECRETARY

August 27, 2013

Ms. Michelle Baker  
County Administrator  
Pasco County  
7530 Little Road  
New Port Richey, FL 34654-5598

Re: Ridge Road Extension

Dear Ms. Baker:

The Department would like to reiterate its October 7, 2010 letter to Mr. Bipin Parikh, P.E. in regards to SR 52 and SR 54 Improvement Alternatives that the U.S. Army Corps of Engineers is requesting Pasco County to evaluate.

Federal Highway Administration (FHWA) regulations requires the Florida Department of Transportation (FDOT) and Pasco County to work together on needed transportation facilities within the county. The required document is the Long Range Transportation Plan (LRTP) which compiles the list of the needed transportation facilities. Currently, the LRTP shows SR 52 being widened to 6 lanes from US 19 to US 41, and 4 lanes from US 41 to I-75. Also, SR 54/56 is being shown as having 6 general use lanes from US 19 to I-75. As a result, the Department does not support any improvements inconsistent with the Pasco County Metropolitan Planning Organization (MPO) LRTP.

Sincerely,

Paul Steinman, P.E.  
District Seven Secretary

Since elements of  
The RRE ARE NOW NO  
longer on The LRTP -  
The FDOT CAN NO  
longer support  
The RRE.

COMMENT INSERT--BELOW IN 2015, THE FDOT WAS VERY CLEAR THAT THEY STOOD BEHIND THAT 2013 DECLARATION BY MR. STEINMAN. IF A PROJECT WAS NOT ON A COUNTY'S LRTP, THE FDOT/FTE COULD NOT SUPPORT THAT PROJECT. THEY WERE SPECIFICALLY REFERRING TO THE WIDENING OF SR'S 54 & 52, BUT THE BLANKET DECLARATION STATES THAT THE "...FDOT would not support any alternative that was not consistent

**with the Long Range Transportation Plan” AND THAT WOULD INCLUDE THE RRE AS WELL.**

**MEMORANDUM**

**TO: FILE**

**FROM: Georgianne Ratliff**

**DATE: September 23, 2015**

**RE: Meeting Record**

**On September 22, 2015, Thomas Montgomery, P.E. and Georgianne Ratliff met with FDOT District 7 staff members Debbie Hunt, Director of Transportation Development and Ming Gao, P.E., Intermodal Systems Development Manager.**

**The primary purpose of this meeting was to ascertain whether the Department had changed its position of non-support for those Ridge Road Extension Alternatives that would expand SR 54 and/or SR 52 beyond six (6) at-grade general use lanes as was previously expressed in a letter from District 7 Secretary Paul Steinman, dated August 27, 2013. A copy of that letter was provided to Ms. Hunt and Mr. Gao for their re-review and is attached to this memo.**

**The Secretary’s letter states that FDOT would not support any alternative that was not consistent with the Long Range Transportation Plan.**

**Ms. Hunt and Mr. Gao both indicated that the Department’s position has not changed.**

**Mr. Montgomery asked if the Department would participate in cost sharing for an alternative that did not meet their criteria for support. Ms. Hunt indicated that they would not.**

**COMMENT INSERT--THE ABOVE STATEMENT IN 2015 IS VERY CLEAR THAT NOW IN 2018 IF THEY WERE ASKED, REFERRING TO THE RRE MOD 7, IF THEY “...would participate in cost sharing for an alternative that did not meet their criteria for**



**support...” THEY WOULD, TO BE CONSISTENT, HAVE TO REPLY “...that they would not.”**

**COMMENT INSERT--IF THE FDOT’S “CRITERIA” FOR APPROVAL AND COST SHARING (\$15,500,000 FOR THE RRE INTERCHANGE) “HAS NOT CHANGED,” AND ONE OF THOSE CRITERIA IS THAT THE PROJECT BE ON A COUNTY’S LRTP, AND THE RRE MOD 7 WITH ITS 7 NEW INTERSECTIONS AND THE REMOVAL OF 2 NO-ACCESS OVERPASSES RENDERS IT NO LONGER ON THE CURRENT LRTP, THEN THE FDOT CANNOT SUPPORT THE RRE MOD 7—AS STATED ABOVE.**

**THAT IS YET ANOTHER REASON WHY THE ACOE MUST DENY THIS PROJECT.**

**COMMENT INSERT—BELOW, PASCO’S INTRODUCTION TO THEIR APRIL 2015 ALTERNATIVES ANALYSIS SPECIFICALLY MENTIONS THAT THE CRITERIA FOR APPROVAL OF AN APPLICATION BY THE ACOE INCLUDE BOTH “...The likelihood of receiving a permit from the FDOT” AND “... Consistency with the Long Range Transportation Plan (LRTP).” THE RECENTLY MODIFIED RRE MOD 7 IN 09/2018 NO LONGER MEETS THOSE TWO CRITERIA.**

**<http://www.saj.usace.army.mil/Portals/44/docs/regulatory/Items%20of%20Interest/RRE/April2015Docs/3-1.0Introduction.pdf>**

1.0 INTRODUCTION This document has been prepared in support of the U.S. Army Corps of Engineers (USACE) Permit Application SAJ-2011-00551 (IP-TEH). Pasco County and the Turnpike Authority have submitted the application requesting a permit to construct an extension of existing Ridge Road in central and western Pasco County.

The criteria include:

4. An identification of whether there are availability limitations or logistical obstacles to construction related to each alternative. The various availability and logistical criteria are discussed in Sections 3 and 4 of this analysis and arrayed in a practicability matrix in Section 4 that is consistent with the Section 404(b)(1) Guidelines and the Corps guidance dated June 2014 that provides information on preparation of alternatives analyses in a practicability matrix in Section 4. If any such criteria exist for a particular alternative, these will be described in the text and may include:

- Availability;
- The likelihood of receiving a permit from the FDOT;
- Consistency with the Long Range Transportation Plan (LRTP);

**COMMENT INSERT—BELOW, IN YET ANOTHER SECTION OF THE ABOVE APRIL 2015 PASCO DOCUMENT, PASCO STRESSES THAT AN “OBSTACLE TO CONSTRUCTION” WOULD BE “...consistency with the recommendations of the adopted Pasco County Long Range Transportation Plan (LRTP)...” AND “...Logistical obstacles to construction will be determined as a yes or no condition for each alternative.”**

<http://www.saj.usace.army.mil/Portals/44/docs/regulatory/Items%20of%20Interest/RRE/April2015Docs/4-2.0SummaryofMethodologies.pdf>

## 2.0 SUMMARY OF METHODOLOGIES

PAGE 6

### **Obstacles to Construction**

Logistical obstacles to construction will be considered as those things that must be done during the planning and design phase of the project to allow for the implementation of an alternative. To evaluate if there are logistical obstacles to construction for an alternative, two elements necessary for the implementation of an alternative will be evaluated: **1), a document prepared in compliance with the Federally required transportation planning process;** and 2) the ability to obtain permits/approval from the Florida Department of Transportation, the owning/maintaining agency for state highways, for alternatives involving modification to state highways. **Logistical obstacles to construction will be determined as a yes or no condition for each alternative** based on the two criteria described above. An alternative that is consistent with the LRTP will receive a “yes” rating. Likewise, an alternative that is unlikely to obtain permits from or the approval of the FDOT to allow for its construction as a state facility due to not meeting FDOT policy or having safety, planning consistency or other concerns will receive a “no” rating. A “yes” rating will be shown in the Summary Data (Table 1-1) for the Alternatives Analysis if an alternative receives a yes based on either of the two determining criteria for logistical obstacles to construction.

**COMMENT INSERT--AND BELOW, IN YET ANOTHER SECTION, PASCO STATES THAT “...Modified Alternative 7 is consistent with Pasco County’s Long Range Transportation Plan...” WHICH IS NO LONGER TRUE.**

[http://www.saj.usace.army.mil/Portals/44/docs/regulatory/Items%20of%20Interest/RRE/April2015Docs/57-AttK\\_AlternativesAnalysisforPreferredAlternative\\_ModifiedAlt\\_7.pdf](http://www.saj.usace.army.mil/Portals/44/docs/regulatory/Items%20of%20Interest/RRE/April2015Docs/57-AttK_AlternativesAnalysisforPreferredAlternative_ModifiedAlt_7.pdf)

Attachment K

Data in Support of Modified Alternative 7

for: Ridge Road Extension Alternatives Analysis PREPARED FOR: Pasco County Engineering Services  
Department PREPARED BY: NV5, INC. 6989 E. FOWLER AVENUE TAMPA, FLORIDA 33617 April 2015

PG 5

5.0 Logistics Obstacles to Construction: **Modified Alternative 7 is consistent with Pasco County's Long Range Transportation Plan** and does not require a permit from FDOT to construct.

9.0 Summary

**Modified Alternative 7 does not have logistical or technical factors that make it unavailable or unobtainable by the applicant.**

**COMMENT INSERT—IT DOES NOW IN 2018.**

**THE ENTIRE 2015 ALTERNATIVES ANALYSIS MUST BE REDONE.**

**AND PASCO'S APRIL 11, 2017 RESPONSE TO SHAYNE HAYES (BELOW) STRESSES OVER AND OVER THAT A PROJECT MUST BE CONSISTENT WITH THE COUNTY'S LRTP. THE NEW 09/2018 MODIFICATIONS ARE NOT CONSISTENT.**



April 11, 2017

Mr. Shayne Hayes, Project Manager  
Pensacola Permits Section  
US Army Corps Engineers, Jacksonville District  
41 North Jefferson Street, Suite 301  
Pensacola, FL 32502

Re: SAJ-2011-00551 (SP-TSH) - Ridge Road Extension

Subject: Response to Request for Additional Information dated March 10, 2017

Dear Mr. Hayes:

In response to the Request for Additional Information (RAI) dated March 10, 2017 from the Jacksonville District Corps of Engineers (Corps) we are providing this letter and enclosures. The co-applicant, Florida's Turnpike Enterprise, has reviewed the RAI and has confirmed that there were no items that related to its segment of the project. The intent of this response letter is to clarify, to the Corps, some of the issues raised by the submitted comments from Citizens for Sanity.Com, Incorporated (CFS) on the proposed project.

We have repeated each request for information comment/question below and follow each with a response in *italics*.

1. CFS asserts that Pasco County entered into a legal contract with the owners of the Bexley Ranch and agreed to provide an at-grade intersection in the vicinity of Station 355 in exchange for a gift of right-of-way (ROW). Pursuant to our discussions during the November 2016 field meeting and based upon the most recent exhibits provided to the Corps, it is the Corps' understanding that a bridge would be utilized at this location and that no additional access to the Ridge Road Extension would be provided at that location. Will Pasco County be obligated to provide at-grade access pursuant to the referenced contract? If a permit were issued for extension of Ridge Road, does Pasco County anticipate seeking a permit modification to allow an at-grade intersection at any location east of Suncoast Parkway other than the connection to the mixed-use property located just east of Suncoast Parkway, generally in the vicinity of Station 295.

*Response: Pasco County did enter into an agreement with the owners of the Bexley property through which the proposed Ridge Road Extension (RRE) will pass. The agreement was to provide access for County and Consultant staff to the Bexley property for the purpose of completing surveys necessary to support the preparation of the Corps permit application.*

#### COUNTY ADMINISTRATION

West Pasco Government Center | 8775 Citizens Drive, Suite 350 | New Port Richey, FL 34654  
mbaker@pascocountyfl.net | 727.847.8243

Pasco signed a legally binding contract so were forced to provide that intersection - that was the impetus for the 6 more they now want,

that was prophetic & what they would be having to do

*FDOT has historically shared the cost of improvements within their right of way for projects that were consistent with the L RTP. The SR 54 project east of I-75 cited by CFS is a good example and the improvements were consistent with the L RTP. However, there is not a precedent we are aware of for FDOT sharing in the cost of improvements to state roads that are not consistent with the L RTP. FDOT has gone on record stating they do not support improvements to their roadways that are not consistent with the L RTP. To assume there would be cost sharing by the FDOT for projects that they do not support would be completely speculative.*

*For the purposes of this alternatives analysis, estimating the portion of costs that would be paid by FDOT for County improvements to a state road will follow the following criteria: 1) all costs will be assumed to be paid by the FDOT if the improvement is consistent with the L RTP 2) no costs will be assumed to be paid by the FDOT if the improvements are not consistent with the L RTP. For example, adding 4 general use lanes to SR 52, east of the Suncoast, to create a 6 lane roadway is consistent with the L RTP. Therefore, all costs associated with these improvements will be assumed to be paid by the FDOT. Conversely, for adding 2 at-grade general use lanes to SR 54 no costs will be assumed to be paid by the FDOT since a roadway with 8 general use lanes is not consistent with the L RTP.*

To confirm the applicant's understanding of the potential for FDOT cost sharing on projects within FDOT right of way, a meeting was held with FDOT District 7 representatives responsible for planning and transportation development; Debbie Hunt, Director of Transportation Development and Ming Gao, PE, Intermodal Systems Development Manager. A summary of the meeting discussion is provided as Attachment 4. In short, the District 7 management staff reiterated that FDOT does not support nor would they approve permits for improvements on either SR 52 or SR 54 in excess of 6 general use lanes. The results of previous studies completed for the SR 54 corridor were cited as justification. These studies eliminated at grade alternatives due to lower levels of service and impacts to adjacent businesses. Additionally, pedestrian and bicycle user safety concerns on facilities with more than 6 general use lanes were also cited. The District 7 management staff also confirmed there would be no sharing of costs by FDOT for improvements proposed by the County in excess of 6 general use lanes on either SR 52 or SR 54. These facilities are state roadways within state owned right of way and the FDOT has control over the type and nature of improvements on them.

The applicant's original response to this item has been confirmed as being valid and no additional response is provided.

### 3. Clarify why the direct impact acres for the following increased:

--Alt. 10 (+4 Tower) increased from 22.2 to 27.3 --Alt. 12 (+2 SR54 & +2 Tower) increased from 13.4 to 17.3 --Alt. 13 (+2 SR54 & +2 SR52) increased from 1.4 to 1.8 --Alt. 14 ((+2 SR52 & +2 Tower) increase from 14.3 to 18.6 --Alt. 15 (+2RRE & +2 Tower) increase from 26.5 to 37.9 (this doesn't add up. If add in RRE interchange (+5.9), would be 32.4) --Alt. 16 (+2RRE & +2 SR52) increase from 13.4 to 22.5 (this doesn't add up. If add in RRE interchange (+5.9), would be 19.3). --Alt. 17 (+2 RRE & +2 SR54) increase from 13.7 to 21.2 (this doesn't add up. If add in RRE interchange (+5.9), would be 19.6).

**COMMENT INSERT--FINALLY, THERE ARE 3 EMAILS BELOW THAT PROVIDE EVIDENCE THAT PASCO OFFICIALS AND THEIR CONSULTANTS WERE FULLY AWARE OF THE PROBLEMS THAT WOULD LIKELY OCCUR IF THE ACCESS MODIFICATIONS WERE ACTUALLY PROPOSED, AS THEY LATER WERE.**

**From:** Dwight Beranek [<mailto:dwight.beranek@gmail.com>]  
**Sent:** Thursday, May 24, 2018 11:25 PM  
**To:** [barrows@teleport.com](mailto:barrows@teleport.com)  
**Cc:** Thomas Montgomery; Sam Beneck; Margaret W. Smith; John Bailey  
**Subject:** Re: RRE - assessment from the Len-Angeline team

Let's include this issue on the agenda for our internal call next Wednesday(?). **We appear to be stuck in a circuitous discussion between parties with somewhat different objectives.**

Vr, Dwight  
Cell: (941)757-9609

Sent from my iPad

On May 24, 2018, at 9:12 PM, <[barrows@teleport.com](mailto:barrows@teleport.com)> <[barrows@teleport.com](mailto:barrows@teleport.com)> wrote:

Thanks Tom. Appreciate you weighing in. **The LRTP information is very important to evaluating potential impacts/delays associated with the Corps consideration of any proposed modification, should that occur.** Thanks much...Dave

**COMMENT INSERT-THE EMAIL BELOW REVEALS YET ANOTHER ASPECT OF THE RRE THAT IS OUT OF COMPLIANCE WITH THE PASCO LRTP, NAMELY THAT ASBEL ROAD WAS NOT TO BE GRADE SEPARATED IN THE 2011 PN. BUT IN PASCO'S LRTP IT IS SHOWN TO BE GRADE SEPARATED. EVEN THE 2011 PN IS OUT OF COMPLIANCE WITH THE FACTS, AS STATED BY PASCO IN THEIR LRTP AND LATEST ALTERNATIVES ANALYSIS, BOTH OF WHICH MUST NOW BE REDONE.**

**From:** Thomas Montgomery [<mailto:Thomas.Montgomery@nv5.com>]  
**Sent:** Thursday, June 21, 2018 12:55 PM  
**To:** Sam Beneck  
**Subject:** RE: Ridge Road Extension - 2011 USACE Public Notice

Sam

At the time of the Public Notice Asbel was not planned to be grade separated but as you know, there are items in the project record (e.g., LRTP, latest alternatives analysis) that do document grade separation at Asbel.

Tom

**Tom Montgomery, P.E.** | Vice President | [NVS](#)  
1713 South Kings Avenue | Brandon, FL 33511 | M: 352.901.8485

**COMMENT INSERT--IT IS TRUE, AS WE HAVE POINTED OUT IN THE PAST, THAT THE PASCO MPO IS THE AGENCY THAT AMENDS/UPDATES THE LRTP, THAT IT IS A FEDERALIZED REQUIREMENT, THAT IT HAS TO BE DONE EVERY FIVE YEARS AND THAT IT INVOLVES EXTENSIVE PUBLIC INPUT.**

**IT IS ALSO TRUE THAT PASCO HAS FOR YEARS HEMMED AND HAWED ABOUT NOT BEING ABLE OR WILLING TO AMEND THEIR LRTP TO INCLUDE ALTERNATIVES LIKE ALTERNATIVES 8, 9,11,12,13 AND 14. ALL OF THOSE INVOLVE AMENDING THE PASCO LRTP TO ADD THOSE PROJECTS SUCH THAT THE FDOT WOULD CONSIDER AND APPROVE THOSE ALTERNATIVES, ALL OF WHICH INVOLVE ADDING LANES TO STATE ROADS.**

**IT IS ALSO TRUE THAT PASCO'S MPO IS COMPOSED OF 9 VOTING MEMBERS, AND 5 OF THOSE MEMBERS (A MAJORITY) ARE THE 5 PASCO COUNTY COMMISSIONERS WHO CAN AMEND THE LRTP AT WILL.**

**BUT NOW, IF PASCO ATTEMPTS TO AMEND THEIR LRTP TO CHANGE THE TWO CURRENT RRE MOD 7 OVERPASSES TO INTERSECTIONS, THEN THAT IS PROOF THAT PASCO CAN DO THE EXACT SAME THING FOR THE OTHER ALTERNATIVES AS WELL. THAT INCLUDES ALL OF THOSE ALTERNATIVES THAT HAVE LESS WETLAND IMPACTS THAN THE MOD 7, AND WHICH THEY HAVE FOR YEARS MAINTAINED THEY COULD NOT IMPLEMENT BECAUSE THE FDOT DOES NOT SUPPORT ANY ALTERNATIVE NOT ON A COUNTY'S LRTP. ALL ALTERNATIVES INVOLVING STATE ROADS NOW QUALIFY FOR FDOT AND FTE SUPPORT, ONCE THE LRTP IS AMENDED TO INCLUDE THEM AS WELL.**

**THE RRE MOD 7 CURRENTLY HAS OVER 29 ACRES OF WETLAND IMPACTS, ACCORDING TO THE MOST RECENT UMAM ASSESSMENT. THERE ARE A NUMBER OF ALTERNATIVES FOR WHICH NOT BEING ON PASCO'S LRTP IS NO LONGER A DETRIMENT. AND THE RRE MOD 7 IS AN ALTERNATIVE WHICH NOW HAS THAT DETRIMENT, THAT "LOGISTICS OBSTACLE." AND ALMOST ALL OF THE NON-MOD 7 ALTERNATIVES HAVE FEWER WETLAND IMPACTS AND SATISFY THE PROJECT PURPOSE TO GO EAST ALL THE WAY TO US 41. AND THE FEW WETLAND IMPACTS THEY DO HAVE ARE TO ALREADY DEGRADED WETLANDS SUFFERING FROM "EDGE**

EFFECTS.” THEY ARE UNLIKE THE HIGHER QUALITY WETLANDS ON THE RRE MOD 7 ROW THAT HAVE MUCH HIGHER WETLAND FUNCTIONS AND VALUES.

THE MOD 7 IS SIMPLY NO LONGER THE “PRELIMINARY” LEDPA.

PART 7--EVIDENCE IS PROVIDED HERE THAT THE ACOE HAS IN THE PAST DISCOUNTED THE EVACUATION RATIONALE FOR THE RRE AS IMMATERIAL TO THEIR GUIDELINES. ADDITIONAL EVIDENCE PROVIDED IN THIS PART WILL SHOW THAT THE LAST EVACUATION IN PASCO COUNTY FOR HURRICANE IRMA RESULTED IN NO EAST-WEST BACKUPS WHATSOEVER, AS STATED IN A PRIOR COMMENT (# 20) AND VERIFIED BY PASCO’S OFFICE OF EMERGENCY MANAGEMENT.

IN THIS BRIEF SECTION WE WILL DISCUSS PASCO COUNTY’S CONSTANT HARPING ON THE NEED FOR THE RRE TO IMPROVE EMERGENCY EVACUATION, OFTEN CITING REDUCTIONS OF 4 TO 6 HOURS IN EVACUATION TIME. THIS IS A RED HERRING IN THAT MODERN WEATHER FORECASTING METHODS ARE MUCH IMPROVED OVER PAST YEARS. EVACUATION WARNINGS ARE GIVEN IN DAYS AND NOT HOURS. ADDED TO THAT IS THE ACOE’S TAMPA SECTION CHIEF IN 2008, CHUCK SCHNEPEL, TELLING PASCO THAT “The designation of the prime purpose of the RRE as an evacuation route would not change the analysis of the RRE under the Guidelines.”

[http://www.saj.usace.army.mil/Portals/44/docs/regulatory/Items%20of%20Interest/RRE/April2015Docs/57-AttK\\_AlternativesAnalysisforPreferredAlternative\\_ModifiedAlt\\_7.pdf](http://www.saj.usace.army.mil/Portals/44/docs/regulatory/Items%20of%20Interest/RRE/April2015Docs/57-AttK_AlternativesAnalysisforPreferredAlternative_ModifiedAlt_7.pdf)

Attachment K

Data in Support of Modified Alternative 7

for: Ridge Road Extension Alternatives Analysis PREPARED FOR: Pasco County Engineering Services  
Department PREPARED BY: NV5, INC. 6989 E. FOWLER AVENUE TAMPA, FLORIDA 33617 April 2015

PG 5

9.0 Summary



Compared to the No Action Alternative, Modified Alternative 7 reduces time to evacuate the coastal population by 6.6 hours which is a 42.5% improvement and is the same reduction in evacuation time which results with original Alternative 7

#### **Evacuation Route**

- Hurricane Irma was not a good example of why the Ridge Road Extension is needed as an evacuation route, because so many people heeded the warning and left early. (Consider the no-name storm of the 90's and it's a different story.)

**COMMENT INSERT—IN PAST COMMENT # 20 DATED 04/02/2018, WE ESTABLISHED THE FACT THAT THERE WERE NO E/W TRAFFIC PROBLEMS OR BACKUPS WHATSOEVER. STATE ROAD 54 WAS ALL BUT DESERTED BETWEEN 7:30 AND 8:00 AM ON THE SUNDAY MORNING BEFORE IRMA HIT AT AROUND 8:00 PM THAT EVENING. THIS WAS VERIFIED BY AN EMAIL FROM PASCO COUNTY'S OWN ASSISTANT ADMINISTRATOR FOR PUBLIC SAFETY MR. KEVIN GUTHRIE, WHO OVERSEES THE OFFICE OF EMERGENCY MANAGEMENT.**

**BELOW CHUCK SCHNEPEL STATED IN 2008 THAT EVACUATION SIMPLY IS NOT AN ISSUE UNDER THE GUIDELINES.**



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
P.O. BOX 4970  
JACKSONVILLE, FLORIDA 32232-0919

**August 14, 2008**

Regulatory Division  
South Permits Branch  
Tampa Permits Section  
SAJ-1998-2682 (IP-MN)

Michele L. Baker, Chief Assistant County Administrator  
West Pasco Government Center  
7530 Little Road, Suite 340  
New Port Richey, Florida 34654

Dear Ms. Baker:

Reference is made to your letter of May 9, 2008, responding to my letter of February 28, 2008. Both letters concern Department of the Army (DA) permit application SAJ-1998-2682(IP-MN) submitted by the Pasco County BCC (County) to discharge fill in wetlands to construct an east-west roadway between State Roads 52 and 54 to be known as the Ridge Road Extension (RRE).

8. Clarification on the project purpose for the RRE. The 2001 alternatives analysis does not list evacuation route as the prime purpose. The analysis indicated the purpose was to provide a road to move people and goods between US-19 and US-41. Evacuation route was listed further down the list of purposes for the RRE. **The information provided in your letter does not alter that determination and improvement of evacuation abilities during a storm or hurricane is only one of the purposes of the RRE but not the prime purpose. The majority of the evacuation shelters are located east of US-41 with most east of I-4. There are at least 6 shelters west of the proposed intersection of Moon Lake Road and the RRE. It appears the RRE would not appreciably improve access to the shelters to the east and would have no impact on the shelters west of the RRE. The designation of the prime purpose of the RRE as an evacuation route would not change the analysis of the RRE under the Guidelines.**

If you have any questions regarding the application, please contact Mike Nowicki at the letterhead address or by telephone number at (904) 232-2171.

Sincerely,



Charles A. Schnepel, Chief  
Tampa Section

**PART 8--NEW EVIDENCE IS PROVIDED BELOW BY NV5'S PROJECT MANAGER TOM MONTGOMERY STATING THAT THERE ARE "PROBLEMS" WITH A RECENT DISCOVERY OF WETLANDS THAT WILL BE IMPACTED AT THE MIXED-USE MEDIAN OPENING, ESPECIALLY WHEN TRAVELLING INTO THE PARCEL TO THE SOUTH OF THE RRE.**

**From:** Thomas Montgomery  
**Sent:** Thursday, March 22, 2018 9:10 AM  
**To:** 'barrows@teleport.com' <barrows@teleport.com>; 'Sam Beneck' <sbeneck@pascocountyfl.net>  
**Cc:** 'Dwight Beranek' <dwright.beranek@gmail.com>  
**Subject:** RE: Language from Len-Angeline

Team

For reference I've attached an exhibit showing the MU parcels. The location of the median opening provides access to the northern portion of the eastern MU parcel within uplands. Access from the median opening location to the southern portion of the eastern parcel may be problematic without impacts to wetlands. Also, the remainder of the western portion of the MU parcel (that part not taken by LA/RW) is bounded by wetlands so access to that is problematic without impacts to wetlands. Therefore the language *"...this connection/intersection will not require impacts to wetlands determined to be waters of the United States within the affected parcels."* may present a problem.

Thanks

Tom

**COMMENT INSERT--BELOW IN AN EMAIL FROM SAM BENECK, HE REFERS TO A PRIOR EMAIL FROM DAVE BARROWS' CONCERNING PROBLEMS WITH NOT BEING ABLE TO GET LEN-ANGELINE TO AGREE TO ACCEPTABLE CE LANGUAGE. DAVE INSERTS A REFERENCE TO TOM MONTGOMERY'S RECENT DISCOVERY OF ADDITIONAL WETLANDS THAT WILL BE IMPACTED FROM THE LOCATION OF THE MIXED-USE MEDIAN OPENING.**

**HOW CAN ANYONE ASSESS THE WETLAND IMPACTS USING UMAM FOR THE PURPOSES OF DETERMINING THE REQUIRED NUMBER OF MITIGATION CREDITS NEEDED, AND ASSESS THE POSSIBLE ADVERSE EFFECTS ON ESA LISTED SPECIES AND HABITATS, IF THERE IS STILL, AFTER ALMOST 21 YEARS, SO MUCH REQUIRED DATA THAT IS STILL UNKNOWN? THIS EMAIL IS EXCERPTED, SINCE IT WAS QUOTED IN ITS ENTIRETY IN A PREVIOUS PART OF THIS COMMENT # 22.**

**From:** Sam Beneck  
**Sent:** Friday, March 23, 2018 2:44 PM  
**To:** David Goldstein; Dan Biles  
**Cc:** Margaret W. Smith

Subject: DA comments on RRE Access Language from Len-Angeline

**Gents, please see below from Dave Barrows with Dawson. For reference, the RAI language is also included.**

**D&A recommends against using any of the Len-Angeline language and instead recommends the co-applicants submit the original language developed by the County as the response to RAI#10.**

The Corps made its requirements very clear when requesting information from the County in RAI#10 below. In our judgment, the Len-Angeline language neither meets these requirements in whole or in part. **The language suggested by Len-Angeline shown below is annotated with specific comments from D&A.** Please let me know if you have questions. Thanks...Dave

**Also, as Tom points out [Figure attached], it would be problematic to access portions of the MU parcels without impacts to wetlands.) \*\*\*\***

**COMMENT INSERT--BELOW IS THE MAP TOM MONTGOMERY ATTACHED TO THAT EMAIL SHOWING THE WETLAND "PROBLEM" AT THE MIXED-USE ACCESS MEDIAN. IT WAS SHOWN BEFORE IN PART 5 OF THIS COMMENT.**



**ADDENDUM TO THIS COMMENT # 22--THE POSITION OF OTHER FEDERAL AGENCIES.**

**COMMENT INSERT—BELOW IS FROM THE USFWS BIOLOGICAL OPINION FOR THE FLORIDA SCRUB JAY WRITTEN BY CALLEE DAVENPORT. HE STATED THAT “WHEN LANDS ARE PURCHASED AND SET ASIDE FOR THE PURPOSE OF WETLAND AND LISTED SPECIES CONSERVATION, THEY SHOULD REMAIN INTACT TO SERVE THAT PURPOSE.”**



## United States Department of the Interior

### FISH AND WILDLIFE SERVICE

6620 Southpoint Drive, South  
Suite 310  
Jacksonville, Florida 32216-0912

IN REPLY REFER TO:

41910-2006-F-0330

May 22, 2006

Colonel Robert M. Carpenter  
District Engineer  
U.S. Army Corps of Engineers  
Post Office Box 4970  
Jacksonville, Florida 32232-0019

SEARCHED
INDEXED
SERIALIZED
FILED

FWS Project Log Number(s): 41910-06-F-0330, Previously: 00-061, 00-061a, and 05-0452.  
Corps Application Number: SAJ-1998-2682 (IP-MN)  
Applicant: Pasco County Board of County Commissioners, Pasco County Development Services  
County: Pasco

Dear Colonel Carpenter:

- \* This document transmits the U.S. Fish and Wildlife Service's (Service) biological opinion based on our evaluation of the Ridge Road Extension (RRE) project, in Pasco County, Florida, U.S. Army Corps of Engineers (Corps) permit application number SAJ-1998-2682 (IP-MN), and its effects on the eastern indigo snake (*Drymarchon corais couperi*), the wood stork (*Mycteria americana*), and the Florida scrub-jay (*Aphelocoma coerulescens coerulescens*) per section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act). Your July 7, 2005 letter requesting initiation of consultation was received in our office on July 9, 2005.

This biological opinion is based on information provided with your letter and information gathered from meetings, field inspections, emails, telephone conversations, and other sources of information.

A complete administrative record of this initiation is on file in the Service's Jacksonville Field Office.

### CONCLUSION

By writing this biological opinion, the Service neither approves nor disapproves of the proposed project as it has been designed and indicated in the February 2, 2000, Corps Public Notice, but provides an opinion based upon the best science available at this time. In general, the Service maintains the position that when lands are purchased and set aside for the express purpose of wetland and listed species conservation, those lands should remain intact to serve that purpose.

**COMMENT INSERT—THE EPA BELOW IN 2012 RECOMMENDED THAT PASCO COUNTY USE THE FUNDS THEY HAVE FOR THE RRE TO WIDEN MOON LAKE ROAD (N/S) TO STATE ROAD 52 (E/W) IN ORDER TO ACHIEVE THE PROJECT PURPOSE. FOLLOWING THAT, IS EVIDENCE THAT THE FDOT WILL BEGIN CONSTRUCTION IN 2019 TO WIDEN SR 52 FROM 2 LANES TO 6 LANES FROM THE PARKWAY EAST TO US 41. A 4-LANE MOON LAKE ROAD GOING NORTH FROM THE CURRENT RIDGE ROAD TO SR 52, WOULD ACHIEVE THE PROJECT PURPOSE WITH MUCH FEWER WETLAND IMPACTS AND MUCH LESS COST TO PASCO. IT WOULD INCREASE TRAFFIC FLOW VOLUME FROM RIDGE ROAD NORTH, THEN EAST, TO US 41 THEREBY ACHIEVING THE PROJECT PURPOSE. THE FDOT WOULD FUND THE ENTIRE COST OF CONSTRUCTION FOR ALL OF THE SR 52 WIDENING.**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

Colonel Alfred A. Pantano Jr.  
District Engineer  
Jacksonville District, Corps of Engineers  
Attn: Tracy Hurst  
U.S. Army Corps of Engineers  
10117 Princess Palm Avenue, Suite 120  
Tampa, Florida 33610

JAN 27 2012

Subject: Comments on Proposed Ridge Road Extension, Public Notice SAJ-2011-00551  
Pasco County Board of Commissioners and Florida Turnpike Enterprise, Applicants

Dear Colonel Pantano:

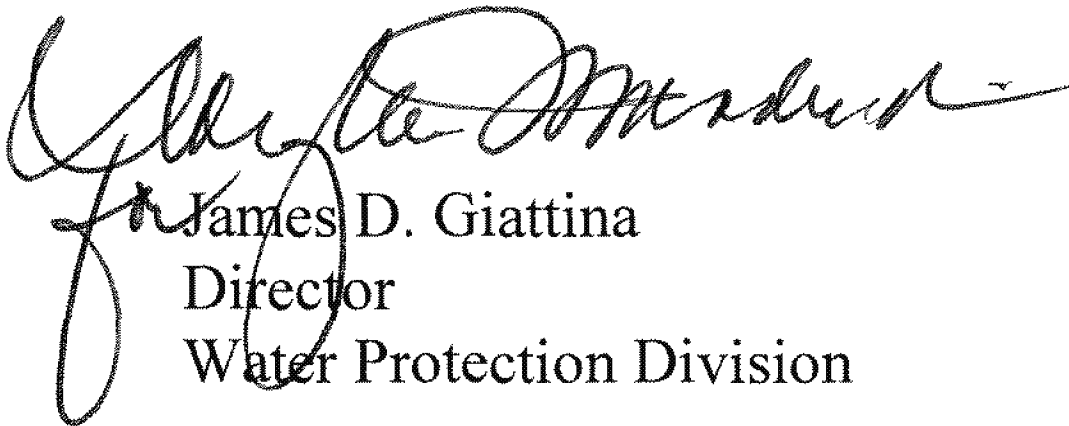
This letter serves as the comments from the U.S. Environmental Protection Agency regarding the subject public notice by the U.S. Army Corps of Engineers (Corps), for the proposed Ridge Road Extension project in central Pasco County, Florida. The same roadway alignment and location was reviewed by the Corps and the EPA through a Corps public notice (SAJ-1998-02682) published in 2000, and the preferred alignment and project alternative for the proposed roadway has remained unchanged by the applicants since that first review. The EPA commented about this proposed roadway project through five separate comment letters provided to the Corps between 2000 and 2007. These prior EPA comments focused on the project purpose definition and the Least Environmentally Damaging Project Alternatives (LEDPA's) for different roadway alignments and widenings, and our concern with these issues remains the same today with this current subject public notice published in November 2011.



The Corps still must make a finding about which roadway alternative route meets the LEDPA standard to be selected. The EPA recommends the consideration of multiple alternatives in the LEDPA determination process, **including an alternative that would widen the existing State Route 52**. This route is an east-west highway that spans the project area and already connects Moon Lake Road with U.S. Hwy. 41.

Another alternative road project that should be evaluated and may help to meet the project purpose more quickly and efficiently and result in far less wetland impacts, would be to initiate the existing project already identified in local plans and funded to **widen Moon Lake Road from 2 to 4 lanes (and eliminate the proposed Ridge Road Extension)**, thereby improving traffic circulation in a north-south direction and thus more readily allowing traffic access to the existing State Routes 52 and 54 that extend in an east west direction. To address hurricane evacuation needs as stated in the project purpose, options for temporary reverse-directional lane configurations on State Routes 52 and 54 also should be analyzed, which was not done conclusively in any analysis in the public notice submittal package of documents and reports. Additionally, other combinations of local roadway and highway widenings and other infrastructure improvements should be considered in the alternatives analysis and LEDPA determination process. **Additionally, an assessment of direct, secondary and cumulative impacts of alternatives have not been sufficiently addressed to support issuance of a permit at this time.**

Sincerely,



for James D. Giattina  
Director  
Water Protection Division

**COMMENT INSERT—BELOW IS FROM THE FDOT WEBSITE. IT IS EVIDENCE THAT CONSTRUCTION TO WIDEN SR 52 TO 6 LANES FROM THE PARKWAY EAST TO US 41 WILL BEGIN IN 2019, LESS THAN 2 MONTHS FROM NOW. THIS IS EXACTLY WHAT THE EPA SUGGESTED 7 YEARS AGO IN THEIR 2012 COMMENT LETTER TO THE ACOE.**

<http://www.fdotampabay.com/project/266/256323-1-52-01>

**This project will widen SR 52 from the Suncoast Parkway to east of US 41 to a six lane divided road.** In addition to the widening, a 12 foot wide multi-use trail will be built along the north side of SR 52. The project also includes approximately 1 mile of widening on US 41 approaching the SR 52 intersection.

The project is currently in design. **Construction is anticipated to begin in 2019.**

#### Project Details

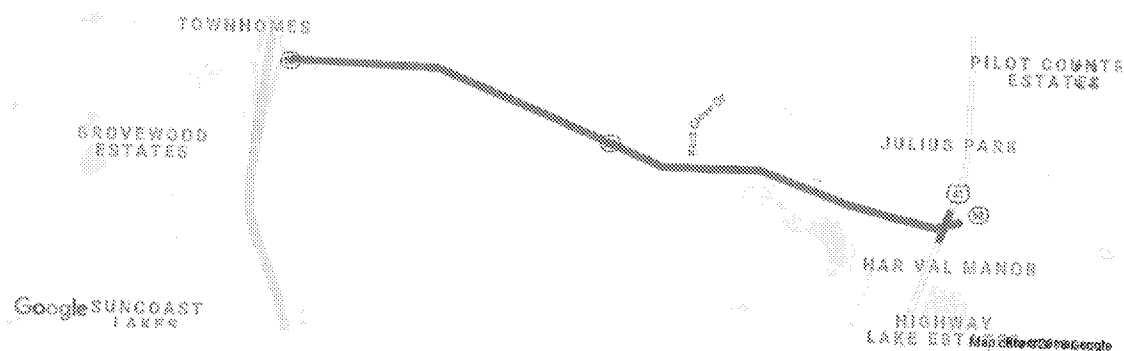
Work Type	Widening
Phase	Design
Limits	From the Suncoast Parkway to east of US 41
Length	3.8 miles
City	Land O' Lakes
County	Pasco
Road	SR 52 US 41
Design Cost	\$3.8 million
ROW Cost	\$72 million

11/15/2018

256323-1-52-01 SR 52 Widening from the Suncoast Parkway to east of US 41



SR 52 Widening from the Suncoast Parkway to east of US 41 256323-1-52-01



**COMMENT INSERT—THE ARNI ISSUE--FROM THE SAME ABOVE EPA LETTER (EXCERPTED BELOW): "The EPA considers wetlands of the Starkey Wilderness Preserve and the upper Pithlachascotte River and Anclote River watersheds to be Aquatic Resources of National Importance (ARNI)..." SINCE THAT ARNI DESIGNATION RAISES THE DEGREE OF ECOLOGICAL IMPORTANCE TO A MUCH HIGHER LEVEL, THE REQUIRED MITIGATION WILL LIKELY HAVE A RATIO OF GREATER THAN 1 : 1. IF THAT DOES HAPPEN, THEN THE COST OF MITIGATION CREDITS PASCO HAS TO PURCHASE FROM THE OLD FLORIDA MITIGATION BANK WILL INCREASE PROPORTIONALLY. PASCO IS NOW CONTRACTED TO PAY \$195,000 PER CREDIT TO OFFSET OVER 29 ACRES OF WETLAND IMPACTS. AS THAT COST INCREASES, THE RRE MOD 7 BECOMES LESS AND LESS "PRACTICABLE" AS IT BECOMES LESS AFFORDABLE, WHEN COMPARED TO OTHER ALTERNATIVES THAT HAVE FEWER WETLAND IMPACTS EXHIBITING EDGE EFFECTS THAT REDUCE THEIR ENVIRONMENTAL VALUE AND NEED FEWER MITIGATION BANK CREDITS.**

From our own recent field inspections of the **Phase I** segment, the EPA considers **these wetland areas to exhibit high quality ecological functions**, based upon their intact native plant communities, lack of any substantial invasive vegetation, relatively large stands of mature cypress (*Taxodium distichum*) trees in wetlands scattered throughout the site and field indicators of

seasonally fluctuating water levels and a natural wetland hydroperiod. The **Phase II** section at the eastern portion of the proposed project area also appears to exhibit similarly high quality wetland functions, based upon our examination of aerial photos, various maps and views across the western boundary fence.

The proposed Ridge Road Extension Phase I corridor bisects the Serenova Tract property (6,533 acres) that is a northern addition to the larger Starkey Wilderness Preserve, owned and managed by Southwest Florida Water Management District. The Serenova Tract features a wellfield that contributes to the regional water supply system. **The EPA considers wetlands of the Starkey Wilderness Preserve and the upper Pithlachascotee River and Anclote River watersheds to be Aquatic Resources of National Importance (ARNI)**, based upon their existing and intact wetland functions, including wildlife habitat, groundwater recharge and water quality enhancements for the nearby downstream estuaries.

## **CONCLUSION TO COMMENT # 22:**

**BECAUSE OF THE FOLLOWING REASONS, THE RRE MOD 7 MUST NOW BE DENIED:**

**1-THERE IS NO ACCESS TO OVER 3,600 ACRES ON THE BEXLEY RANCH TO PERFORM REQUIRED ENVIRONMENTAL AND GEOTECHNICAL TASKS. THE BEXLEYS WANT A DRASTIC REDUCTION, OR ELIMINATION ALTOGETHER, OF THE 2200-FOOT WIDE ECOLOGICAL (WILDLIFE) CORRIDOR DIVIDING FROM E/W THEIR RANCLANDS. THAT CORRIDOR WAS DESCRIBED IN A 2002 STUDY TO BE ONE OF THE MOST CRITICAL TO ENSURE SPECIES MOVEMENT FROM THE OVER 19,000-ACRE STARKEY/SERENOVA PRESERVE EAST TO THE CONNER AND CYPRESS CREEK PRESERVES AND THE CROSS BAR-AL BAR WELLFIELD PRESERVE. THE BEXLEYS ALSO RESERVED THE RIGHT TO CHALLENGE THE CONSTITUTIONALITY (THE TOLLING AGREEMENT) OF BOTH PASCO'S ECOLOGICAL CORRIDOR AND TRANSPORTATION ORDINANCES. THOSE ORDINANCES ALLOW FOR A 'TAKING' BY THE COUNTY FOR THE WILDLIFE CORRIDOR AND THE RRE ROW CORRIDOR. BY THREATENING TO CHALLENGE THE PASCO TRANSPORTATION ORDINANCE, THE BEXLEYS ARE SIGNALLING THAT THEY DO NOT WANT ANY PART OF HAVING TO GIVE UP ANY OF THEIR RANCLAND FOR A ROAD THROUGH THAT LAND. THEY WILL FIGHT IN COURT ALL ATTEMPTS AT AN EMINENT DOMAIN TAKING BY ADJUDICATING THE LACK OF NEED FOR THE RRE AND THE AVAILABILITY OF OTHER NON-RRE ALTERNATIVES.**

**2-THE RRE MOD 7 NO LONGER ACHIEVES THE PROJECT PURPOSE TO PROVIDE ADDITIONAL TRAFFIC FLOW VOLUME TO U.S. 41. OTHER ALTERNATIVES DO ACHIEVE THAT PURPOSE SINCE THEY ARE MORE "PRACTICABLE," AFFORDABLE AND HAVE FEWER WETLAND IMPACTS.**

**3-THERE IS NO CHANCE OF GETTING ITEM # 10 ON THE 05-11-07 RAI ESTABLISHING A CONSERVATION EASEMENT AROUND THE MIXED-USE PARCELS SIGNED BY THE NEW OWNER LEN-ANGELINE.**

4-THE PROPOSED 7 NEW INTERSECTIONS ARE NOT ON THE CURRENT PASCO LRTP. THE TWO OVERPASS BRIDGES NOW ON THAT LRTP HAVE NOT BEEN CHANGED OR MODIFIED TO SHOW INTERSECTIONS. THE ADMINISTRATIVE RECORD IS REplete WITH STATEMENTS BY THE FDOT THAT THEY WILL NOT SUPPORT ANY PROJECT NOT ON A COUNTY'S LRTP. THAT WOULD INDICATE THAT THE FDOT NO LONGER SUPPORTS THE RRE INTERCHANGE, SINCE IT CANNOT SUPPORT THE RRE PROJECT. THE FDOT NO LONGER QUALIFIES AS A CO-APPLICANT.

5-BECAUSE PASCO CANNOT AFFORD TO CONSTRUCT PHASE 2, THE PROJECT IS THEREFORE BEING SEGMENTED. SINCE NO PORTION OR INDIVIDUAL PHASE HAS INDEPENDENT UTILITY, ALL 8.4 MILES OF THE RRE MUST BE ASSESSED FOR DIRECT AND INDIRECT (SECONDARY & CUMULATIVE) IMPACTS AND THE TRUE TOTAL COST OF BOTH PHASES, INCLUDING CONSTRUCTION IN 2019, MUST BE REPORTED, AND NOT JUST THAT COST FOR PHASE 1. THE APPLICANT AT PRESENT HAS NO KNOWLEDGE OF THE LOCATIONS OF THE PROPOSED 7 INTERSECTIONS ON PHASE 2. THERE IS THEREFORE NO POSSIBILITY OF ASSESSING ANY POTENTIAL WETLAND AND LISTED SPECIES HABITAT IMPACTS AT THOSE INTERSECTIONS. THERE IS ALSO NO WAY TO DETERMINE THE REQUIRED MITIGATION BANK CREDITS NEEDED TO OFFSET THOSE IMPACTS.

6-THE EVACUATION RATIONALE HAS BEEN DISCOUNTED AS A VIABLE PURPOSE BY A PAST ACOE SECTION CHIEF, CHUCK SCHNEPEL. HE STATED IT WAS NOT RELEVANT UNDER THE ACOE'S GUIDELINES.

7-NEW INFORMATION HAS SURFACED THAT THE MEDIAN OPENING FOR THE TWO COMMERCIAL PARCELS EAST OF THE INTERCHANGE WILL HAVE AS YET UNREPORTED WETLAND IMPACTS. THAT WILL INCREASE THE NUMBER OF THOSE IMPACTS, AS WELL AS THE NEED FOR MORE MITIGATION BANK CREDITS.

#### ONE FINAL NOTE:

WE INCLUDE BELOW FOR A SECOND TIME THE CFR § 230.12 (A)(3)(IV) REGULATION THAT THE LACK OF REQUIRED INFORMATION FROM THE APPLICANT (ESPECIALLY OVER A 20-YEAR PERIOD, AND MORE RECENTLY OVER AN 18-MONTH PERIOD SINCE THE MAY 11, 2017 RAI) ALLOWS THE ACOE TO DENY, OR PERMANENTLY WITHDRAW (AS A FINAL AGENCY ACTION), ANY PERMIT APPLICATION THAT FITS THAT CFR'S PARAMETERS FOR DENIAL.

[https://www.ea.gov/sites/production/files/2015-03/documents/cwa\\_section404b1\\_guidelines\\_40cfr230\\_july2010.pdf](https://www.ea.gov/sites/production/files/2015-03/documents/cwa_section404b1_guidelines_40cfr230_july2010.pdf)

PART 230—SECTION 404(b)(1) GUIDELINES FOR SPECIFICATION OF DISPOSAL SITES FOR DREDGED OR FILL MATERIAL

Subpart B—Compliance With the Guidelines

§ 230.12 Findings of compliance or non-compliance with the restrictions on discharge.

(a) On the basis of these Guidelines (subparts C through G) the proposed disposal sites for the discharge of dredged or fill material must be:

(3) Specified as failing to comply with the requirements of these Guidelines where:

(iv) There does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines

**AND LASTLY, FOLLOWING THE DIRECTIONS GIVEN IN THE MOST RECENT 09/2018 PN:**

“REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.”

**WE HEREBY MAKE THAT REQUEST FOR A PUBLIC HEARING.**

**RESPECTFULLY SUBMITTED,**

Dan & Sara Rametta  
Richard Sommerville  
Save Our Serenova  
Citizens For Sanity.Com,Inc.  
& The Commenters Group

cc: Brigadier General Diana M Holland, Commander, South Atlantic Division  
Clif Payne, Chief, Special Projects and Enforcement Branch  
Shayne Hayes, Project Manager  
Joshua R. Holmes, Principal Assistant District Counsel for Regulatory  
Christina Storz, Assistant District Counsel  
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